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MANUAL OF MILITARY LAW,

ADDENDUM

By Command of the Army Council,



THE WAR OFFICE,

31st December, 1940

The references to King's Regulations throughout the Manual of Military Law, 1929, are to King's Regulations for the Army and the Army Reserve (1928 edition)—see Manual of Military Law, 1929, page ix.

In order to facilitate reference to the current (1940) edition of King's Regulations for the Army and the Royal Army Reserve, a comparative table is given below showing the numbers of paragraphs, etc., in the 1928 edition (and amendments thereto published in Army Orders), and of the corresponding paragraphs, etc., in the 1940 edition; also the disposal of paragraphs, etc., which have been removed from the 1928 edition.

1928	1940	1928	1940	1928	1940	1928	1940
1	1	49	50	88	99	129	143
2	2	50	51	89	100	130	144
3	3	51	52	90	101	131	145
4	4	52	53	91	102	132	146
5	5	53	54	92	103	133	147
6	6	53 _A	55	93	104	134	148
7	7	54	56	94	105	135	149
8	8	55	57	95	106	136	150
9	9	56	58	96	107	137	151
10	10	57	59	97	108	138	152
11	11	58	60	98	109	139	153
12	12	59	61	99	110	140	154
13	13	60	62	100	111	—	155
14	14	61	63	101	112	141	156
15	15	62	64	102	113	142	157
16	16	63	65	103	114	143	158
17	17	64	66	104	115	143 _A	159
18	18	64 _A	67	105	116	144	160
18 _A	19	64 _B	68	106(a)	117(a)	145	161
19	20	65	69	106(b)	118	146	162
20	21	66	70	107	117(b)	147	163
21	22	67	71	—	and (c)	147 _A	164
22	23	68	72	108(a)	121	148	165
23	24	69	73	—	122	149	deleted
24	25	69 _A	74	108(b)	120(a)	150	166
25	26	69 _B	75	108(c)	119	151	deleted
26	27	69 _C	76	and (d)	—	152	167
27	28	—	77	109	120(b)	—	168
28	29	—	78	110	120(c)	153	169
29	30	70	79	—	123	154	170
30	31	71	80	111	124	155	deleted
31	32	72	81	112	125	156	171
32	33	—	82	113	126	157	172
33	34	73	83	114	127	158	173
34	35	74	84	115	128	159	174
35	36	75	85	116	129	160	175
36	37	76	86	117	130	161	176
37	38	77	87	118	131	162	177
38	39	78	88	119	132	163	178
39	40	79	89	120	133	164	179
40	41	80	90	121	134	165	180
41	42	81	91	122	135	166	181
42	43	82	92	123	136	167	182
43	44	83	93	124	137	168	183
44	45	84	94	125	138	169	184
45	46	85	95	125 _A	139	170	185
46	47	86	96	126	140	171	186
47	48	86 _A	97	127	141	172	187
48	49	87	98	128	142	173	188

1928	1940	1928	1940	1928	1940	1928	1940
174	189	219	236	263	285	312	deleted
175	190	220	237	264	286	313	332
176	191	221	238	265	287	314	333
177	192	222	239	266	288	314 _A	334
177 _A	193	223	240	267	289	315	335
177 _B	194	224	241	268	290	316	336
178	195	225	242	269	deleted	317	337
—	196	226	243	270	291	318	338
179	197	227	244	271	292	319	339
180	198	228	245	272	293	320	340
181	199	229	246	273	294	321	341
182	200	230	247	274	295	322	342
183	201	231	248	275	296	323	343
184	202	232	249	276	297	324	344
185	203	233	250	277	298	325	345
186	204	234	251	278	299	325 _A	346
187	205	235	252	279	300	326	347
188	206	236	253	280	301	327	deleted
189	207	237	254	281	302	328	348
190	208	237 _A	255	282	303	329	349
191	209	238	256	283	304	330	350
192	210	239	257	284	305	331	351
193	211	240	258	285	306	332	352
—	212	240 _A	259	286	307	333	353
194	213	241	260	287	308	334	354
195	214	242	261	288	deleted	335	355
196	215	243	262	289	309	336	356
197	216	244	263	290	310	337	357
198	217	245	264	291	311	338	358
199	deleted	245 _A	265	292	312	339	359
200	218	246	266	293	313	340	360
201	219	247	267	294	314	341	361
202	220	248	268	295	315	342	362
203	221	249	269	296	316	343	363
204	222	250	270	297	317	344	364
205	223	251	271	298	318	345	365
206	224	252	272	299	319	346	366
207	225	253	273	300	320	347	367
208	226	254	274	301	321	348	368
209	227	254 _A	275	302	322	349	369
210	228	255	276	303	323	350	370
211	229	256	277	304	324	351	371
212	230	257	278	305	325	352	372
213	231	258	279	306	326	353	373
214	deleted	259	280	307	327	354	374
215	232	260	281	308	328	355	375
216	233	260 _A	282	309	329	356	376
217	234	261	283	310	330	357	377
218	235	262	284	311	331		

1928	1940	1928	1940	1928	1940	1928	1940
359	379	405	428	452	474	501	522
360	380	406	deleted	453	475	502	523
361	381	407	429	454	476	—	524
362	382	408	430	455	477	503	525
363	383	409	431	456	478	504	526
364	384	410	432	457	479	505	527
365	385	411	433	458	480	506	528
366	386	412	434	459	481	507	529
367	387	413	deleted	460	482	508	530
368	388	414	deleted	461	483	509	531
369	389	414 _A	435	462	484	510	532
370	390	415	436	463	485	511	533
371	391	416	437	464	486	512 ex-	535
372	392	417	438	465	487	cept (b)	
373	393	418	439	466	488	512(b)	534
373 _A	394	419	440	467	489	513	536
374	395	420	441	468	490	514	537
375	396	421	442	469	491	515	538
376	397	422	443	470	492	516	539
377	398	—	444	471	493	—	540
378	399	423	445	472	494	517	541
379	400	424	446	473	495	—	542
380	401	425	447	474	496	518	543
381	402	426	448	475	497	519	544
382	403	427	449	476	498	520	545
383	404	428	450	477	499	521	546
384	405	429	451	478	500	522	547
385	406	430	452	479	501	523	548
385 _A	407	431	453	480	502	524	549
386	408	432	454	481	503	524 _A	550
387	409	433	455	482	504	525	551
388	410	434	456	483	505	526	552
389	411	435	457	484	506	527	553
390	412	436	458	485	507	528	554
391	413	437	459	486	508	529	555
—	414	438	460	487	509	530	deleted
392	415	439	461	488	510	531	556
393	416	440	462	489	511	532	557
394	417	441	463	490	512	533	558
395	418	442	464	491	513	534	559
396	419	443	465	492	514	535	560
397	420	444	466	493	515	536	561
398	421	445	467	494	516	536 _A	562
399	422	446	468	495	517	537	563
400	423	447	469	496	518	538	564
401	424	448	470	497	519	539	565
402	425	449	471	498	520	540	566
403	426	450	472	499	deleted	541	567
404	427	451	473	500	521	542	568

1928	1940	1928	1940	1928	1940	1928	1940
543	569	590	617	636	665	683	714
544	570	591	618	637	666	684	715
545	571	592	619	638	667	685	716
546	572	593	620	639	668	686	717
547	573	594	621	640	669	687	718
548	574	595	622	641	670	688	719
549	575	596	623	642	671	689	720
550	576	597	624	643	672	690	721
551	577	597 _A	deleted	644	673	691	722
—	578	598	625	645	674	692	723
552	579	599	626	646	675	693	724
553	580	600	627	647	676	694	725
554	581	601	628	648	677	695	726
555	582	602	629	649	678	696	727
556	583	603	630	650	679	697	728
557	584	604	631	651	680	698	729
558	585	—	632	652	681	699	730
559	586	605	633	653	682	700	731
560	587	606	634	654	683	701	732
561	588	607	635	655	684	702	733
562	589	608	636	656	685	703	734
563	590	609	637	657	686	704	735
564	591	610	638	658	687	705	736
565	592	611	639	659	688	706	737
566	593	612	640	660	689	707	738
567	594	613	641	661	690	708	739
568	595	614	642	662	691	709	740
569	deleted	614 _A	643	663	692	710	741
570	596	615	644	664	693	711	742
571	597	616	645	665	694	712	743
571 _A	598	617	646	666	695	713	744
572	599	618	647	667	696	714	745
573	600	619	648	667 _A	697	715	746
574	601	620	649	668	698	716	747
575	602	621	650	—	699	717	748
576	603	622	651	669	700	718	749
577	604	623	652	670	701	719	750
578	605	624	653	671	702	720	751
579	606	625	654	672	703	721	752
580	607	626	655	673	704	722	753
581	608	627	656	674	705	723	754
582	609	628	657	675	706	724	755
583	610	629	658	676	707	725	756
584	611	630	659	677	708	726	757
585	612	631	660	678	709	727	758
586	613	632	661	679	710	728	759
587	614	633	662	680	711	728 _A	deleted
588	615	634	663	681	712	729	760

1928	1940	1928	1940	1928	1940	1928	1940
731	762	772	811	808	860	855	908
732	763	773	812	809	861	856	909
733	764	774	813	810	862	857	910
734	765	775	814	811	863	858	911
735	766	776	815	811 _A	864	859	912
736	767	777	816	812	865	860	913
737	768	778	817	813	866	861	914
738	769	779	818	814	867	862	915
739	770	780	819	815	868	—	916
739 _A	771	781	820	816	869	863	917
740	772	782	821	817	870	864	918
741	773	782 _A	822	818	871	865	919
742	774	782 _B	823	819	872	866	920
743	775	—	824	820	873	867	deleted
743 _A	776	—	825	821	874	868	921
744	777	783	826	822	875	869	922
745	778	784	827	823	876	870	923
746	779	785	828	824	877	871	924
747	780	786	829	825	878	872	925
748	781	787	830	826	879	873	926
749	782	788	831	827	880	874	927
750	783	789	832	828	881	875	928
751	784	790	833	828 _A	882	876	929
752	785	791	834	829	883	877	930
753	786	792	835	830	884	878	931
754	787	792 _A	836	831	885	879	932
755	788	792 _B	837	832	886	880	933
756	789	793	838	833	887	881	934
757	790	794	839	834	888	882	935
758	791	795	840	835	889	883	936
759	792	796	841	836	890	884	937
760	793	797	842	837	891	885	938
760 _A	794	798	843	838	892	886	939
761	795	799	844	839	893	887	940
762	796	800	845	840	894	887 _A	941
763	797	801	846	841	895	888	942
764	798	802	847	842	896	889	943
765	799	803	848	843	deleted	890	944
765 _A	800	804	849	844	897	891	945
766	801	805	850	845	898	892	946
—	802	806	851	846	899	893	947
766 _A	803	807	852	847	900	894	948
767	804	—	853	848	901	895	949
—	805	—	854	849	902	896	950
768	806	—	855	850	903	897	951
769	807	—	856	851	904	898	952
769 _A	808	—	857	852	905	899	953
770	809	—	858	853	906	900	954
771	810	—	859	854	907	901	955

1928	1940	1928	1940	1928	1940	1928	1940
902	956	949	1003	993	1052	1041	1097
—	957	950	1004	994	1053	1042	1098
903	958	951	1005	995	1054	1043	1099
904	959	952	1006	996	1055	1044	1100
905	960	953	1007	997	1056	1045	1101
906	961	954	1008	997A	1057	1046	1102
907	962	954A	1009	998	1058	1047	1103
908	963	955	1010	999	1059	1048	1104
909	964	956	1011	1000	1060	1049	1105
910	965	957	1012	1001	1061	1050	1106
911	966	958	1013	1002	1062	1051	1107
912	967	959	1014	1003	1063	1052	1108
913	968	960	1015	1004	1064	1053	1109
914	969	961	1016	1005	1065	1054	1110
915	970	962	1017	1006	1066	1055	1111
916	971	963	1018	1007	1067	1056	1112
917	972	963A	1019	1008	1068	1057	1113
918	973	964	1020	1009	1069	1058	1114
919	974	965	1021	1010	1070	1059	1115
920	975	966	1022	1011	1071	1060	1116
921	976	967	1023	1012	1072	1061	1117
922	977	968	1024	1013	1073	1062	1118
923	978	969	1025	1014	1074	1063	1119
924	979	970	1026	1015	1075	1064	1120
925	980	970A	1027	1016	1076	1065	1121
926	981	970B	1028	1017	1077	1066	1122
927	982	971	1029	1018	1078	1067	1123
928	983	972	1030	1019	1079	1068	1124
929	984	973	1031	1020	1080	1069	1125
930	985	974	1032	1021	1081	1070	1126
931	986	975	1033	1022	1082	1071	1127
932	987	—	1034	1023	1083	1072	1128
932A	988	976	1035	1024	1084	1073	1129
933	989	977	1036	1025	1085	1073A	1130
934	990	978	1037	1026	1086	1074	1131
935	deleted	979	1038	1027	1087	1075	1132
936	991	980	1039	1028	1088	—	1133
937	992	981	1040	1029	deleted	—	1134
938	993	982	1041	1030	1089	—	1135
939	deleted	983	1042	1031	1090	1076	1136
940	994	984	1043	1032	1091	1077	1137
941	995	985	1044	1033	1092	1078	1138
942	996	986	1045	1034	1093	1079	1139
943	997	987	1046	1035	deleted	1080	1140
944	998	988	1047	1036	1094	1081	1141
945	999	989	1048	1037	1095	1082	1142
946	1000	990	1049	1038	deleted	1082A	1143
947	1001	991	1050	1039	1096	1083	1144

1928	1940	1928	1940	1928	1940	1928	1940
1085	1146	1128	1195	1177	1242	1225	1290
1086	1147	1129	1196	1178	1243	1226	1291
1087	1148	1130	1197	1179	1244	1227	1292
1088	1149	1131	1198	1180	1245	1228	1293
1089	1150	1132	1199	1181	1246	1229	1294
1090	1151	1133	1200	1182	1247	1230	1295
1091	1152	1134	1201	1183	1248	1231	1296
1092	1153	1135	1202	1184	1249	1232	1297
1093	1154	1136	1203	1185	1250	1233	1298
—	1155	1137	1204	1186	1251	1234	1299
1094	1156	1138	1205	1187	1252	1235	1300
1095	1157	1139	deleted	1187A	1253	1236	1301
1096	1158	1140	1206	1188	1254	1237	1302
1097	1159	1141	1207	1189	1255	—	1303
1098	1160	1142	1208	1190	1256	1238	1304
1099	1161	1143	1209	1191	deleted	1239	1305
1100	1162	1144	1210	1192	1257	1240	1306
1101	1163	1145	1211	1193	1258	1241	1307
1102	1164	1146	1212	1194	1259	1242	1308
1103	1165	1147	1213	1195	1260	1243	1309
1104	1166	1148	1214	1196	1261	1244	1310
1104A	1167	1149	1215	1197	1262	1245	1311
1105	1168	1150	1216	1198	1263	1246	1312
1106	1169	1151	1217	1199	1264	1247	1313
1107	1170	1152	1218	1200	1265	1248	1314
1107A	1171	1153	1219	1201	1266	1249	1315
1107B	1172	1154	1220	1202	1267	1250	1316
1107C	1173	1155	1221	1203	1268	1251	1317
1108	1174	1156	1222	1204	1269	1252	1318
1109	1175	1157	1223	1205	1270	1253	1319
1110	1176	1158	1224	1206	1271	1254	1320
1111	1177	1159	1225	1207	1272	1255	1321
1112	1178	1160	1226	1208	1273	1256	1322
1113	1179	1161	1227	1209	1274	1257	1323
1114	1180	1162	1228	1210	1275	1258	1324
1115	1181	1163	deleted	1211	1276	1259	1325
1116	1182	1164	1229	1212	1277	1260	1326
1117	1183	1165	1230	1213	1278	1261	1327
1118	1184	1166	1231	1214	1279	1262	1328
1119	1185	1167	1232	1215	1280	1263	1329
1120	1186	1168	1233	1216	1281	1264	1330
1121	1187	1169	1234	1217	1282	1265	1331
1122	1188	1170	1235	1218	1283	1266	1332
1123	1189	1171	1236	1219	1284	1267	1333
1124	1190	1172	1237	1220	1285	1268	1334
1125	1191	1173	1238	1221	1286	1269	1335
1126	1192	1174	1239	1222	1287	1270	1336
1126A	1193	1175	1240	1223	1288	1271	1337
1127	1194	1176	1241	1224	1289	1272	1338

1928	1940	1928	1940	1928	1940	1928	1940
1273	1339	1321	1388	1366	1435	1413	1484
1274	1340	1322	1389	1367	1436	1414	1485
1275	1341	1323	1390	1368	1437	1415	1486
1276	1342	1324	1391	1369	1438	1416	1487
1277	1343	1325	1392	—	1339	1417	deleted
1278	1344	1326	1393	1370	1440	1418	deleted
1279	1345	1327	1394	1371	1441	1419	deleted
1280	1346	1328	1395	1371 _A	1442	1420	1488
1281	1347	1329	1396	1372	1443	1421	1489
1282	1348	1330	1397	1373	1444	1421 _A	1490
1283	1349	1331	1398	1374	1445	1422	1491
1284	1350	1332	1399	1375	1446	1423	1492
1285	1351	1333	1400	1376	1447	1424	1493
1286	1352	1334	deleted	1377	1448	—	1494
1287	1353	1335	1401	1378	1449	1425	1495
1288	1354	1336	1402	1379	1450	1426	1496
1289	1355	1337	1403	1380	1451	1427	1497
1290	1356	1338	1404	1381	1452	1428	1498
1291	1357	1339	deleted	1382	1453	1429	1499
1292	1358	1340	1405	1383	1454	1430	1500
1293	1359	1341	1406	1384	1455	1431	1501
1294	1360	1341 _A	1407	1385	1456	1432	1502
1295	1361	—	1408	1386	1457	1433	1503
1296	1362	1341 _B	1409	1387	1458	1434	1504
1297	1363	1342	1410	1388	1459	1435	1505
1298	1364	1343	1411	1389	1460	1436	1506
1299	1365	1344	1412	1390	1461	1437	1507
1300	1366	1345	1413	1391	1462	1438	1508
1301	1367	1346	1414	1392	1463	1439	1509
1302	1368	1347	1415	1393	1464	1440	1510
1303	1369	1348	1416	1394	1465	1441	1511
1304	1370	1349	1417	1395	1466	1442	1512
1305	1371	1350	1418	1396	1467	1443	1513
1306	1372	1351	1419	1397	1468	1444	1514
1307	1373	1352	1420	1398	1469	1445	1515
1308	1374	—	1421	1399	1470	1446	1516
1309	1375	1353	1422	1400	1471	1447	1517
1310	1376	1354	1423	1401	1472	1448	1518
1311	1377	1355	1424	1402	1473	1448 _A	1519
1312	1378	1356	1425	1403	1474	1449	1520
1313	1379	1357	1426	1404	1475	1450	1521
1314	1380	1358	1427	1405	1476	1450 _A	1522
1315	1381	1359	1428	1406	1477	1451	1523
1316	1382	1360	1429	1407	1478	1452	1524
1317	1383	1361	1430	1408	1479	1453	1525
—	1384	1362	1431	1409	1480	1454	1526
1318	1385	1363	1432	1410	1481	1455	1527
1319	1386	1364	1433	1411	1482	1456	1528

1928	1940	1928	1940	1928	1940	1928	1940
1458	1530	1503	1579	1548	1627	1588	1675
1459	1531	1504	1580	1549	1628	1589	1676
1460	1532	1505	1581	1550	1629	1590	1677
1461	1533	1506	1582	1550A	1630	1591	1678
1462	1534	1507	1583	1551	1631	1592	1679
1463	1535	1508	1584	1552	1632	1593	1680
1464	1536	1509	1585	1553	1633	1594	1681
1465	1537	1510	1586	1554	1634	1595	1682
1466	1538	1511	1587	1555	1635	1596	1683
1467	1539	1512	1588	1556	1636	1597	1684
1468	1540	1512A	1589	1557	1637	1597A	1685
1469	1541	1513	1590	1558	1638	1598	1686
1470	1542	1514	1591	1559	1639	1599	1687
1471	1543	1515	1592	1559A	1642	1600	1688
1472	1544	1516	1593	1559B	1640	1601	1689
1473	1545	1517	1594	1559C	1641	1602	1690
1474	1546	—	1595	1560	1643	1603	1691
1475	1547	1518	1596	1561	1644	1604	1692
1476	1548	1519	1597	1562	1645	1605	1693
1477	1549	1520	1598	1563	1646	1606	1694
1478	1550	1521	1599	1564	1647	1607	1695
1479	1551	1522	1600	1565	1648	1608	1696
1480	1552	1523	1601	1566	1649	1609	1697
1480A	1553	1524	1602	1567	1650	1610	1698
1480B	1554	1524A	1603	1568	1651	1611	1699
1481	1555	1525	1604	1569	1652	1612	1700
1482	1556	1526	1605	1570	1653	1613	1701
1483	1557	1527	1606	1571	1654	1614	1702
1484	1558	1528	1607	1572	1655	1615	1703
1485	1559	1529	1608	1573	1656	1616	1704
1486	1560	1529A	1609	1574	1657	1617	1705
1487	1561	1530	1610	1575	1658	1618	1706
1488	1562	1531	1611	1576	1659	1619	1707
1489	1563	1532	1612	1577	1660	1620	1708
1490	1564	1533	1613	1578	1661	1621	1709
1491	1565	1534	1614	1579	1662	1622	1710
1492	1566	1535	1615	1580	1663	1623	1711
1493	1567	1536	1616	1581	1664	1624	1712
1494	1568	1437	1617	1582	1665	1625	1713
1495	1569	1538	1618	1583		1626	1714
1496	1570	1539	1619	1583A	1666	1627	1715
1497	1571	1540	1620	—	1667	1628	1716
1497A	1572	1541	1621	—	1668	1629	1717
1498	1573	1542	deleted	—	1669	1630	1718
1499	1574	1543	1622	—	1670	1631	1719
1499A	1575	1544	1623	1584	1671	1632	1720
1500	1576	1545	1624	1585	1672	1633	1721
1501	1577	1546	1625	1586	1673	1634	1722
1502	1578	1547	1626	1587	1674	1635	1723

1928	1940	1928	1940	1928	1940	1928	1940
1636	1724	1642	1730	1647	1735	1651	1740
1637	1725	1643	1731	1648	1736	1652	1741
1638	1726	1644	1732	1649	1737	1653	1742
1639	1727	1645	1733	1650	1738	1653 _A	1743
1640	1728	1646	1734	1650 _A	1739	1654	1744
1641	1729						

APPENDICES

1928	1940	1928	1940	1928	1940
I	I	XI	XII	XXII	deleted
II	II	XII	XIII	XXIII	XXII
III	III	XIII	XIV	XXIV	deleted
IV	IV	XIV	XV	XXV	XXIII
IV _A	V	XV	XVI	XXVI	XXIV
V	VI	XVI	XVII	XXVII	XXV
VI	VII	XVII	XVIII	XXVIII	XXVI
VII	VIII	XVIII	XIX	XXIX	XXVII
VIII	IX	XIX	XX	—	XXVIII
IX	X	XX	XXI	—	XXIX
X	XI	XXI	deleted		

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MANUAL OF MILITARY LAW. 1929

AMENDMENTS No. 1

AMDT. 1/APRIL/1929

26/Manuals/715

1. PART I. CHAPTER X.

Page 211. Footnote 6. *Add at end—*

“ In the case of a soldier who enlisted as a boy under A.A. 76 (proviso), the period of time or service is reckoned as from the date on which he attained the age of 18 years.”

Page 212. Footnote 2. *Add at end—*

“ See also footnote 6 on p. 211.”

AMDT. 1/APRIL/1929

26/Manuals/715

Page 213. Footnote 3. *Add at end—*

“ In the case of a boy enlisted under A.A. 76 (proviso), the three months within which he may be transferred under this provision are reckoned from the date of his appointment to a corps.”

AMDT. 1/APRIL/1929

26/Manuals/715

2. PART II. ARMY ACT.

Section 78 (page 501). *For the last line of subsection (2) substitute—*

“ twelve years in the whole reckoned, in the case of a soldier to whom an order made under the proviso to section seventy-six of this Act applies, from the day on which he attained the age of eighteen years and, in the case of any other soldier, from the date of his original enlistment.”

AMDT. 1/APRIL/1929

26/Manuals/715

Section 79 (page 502). *For paragraph (1) substitute—*

“ (1) The service shall begin to reckon in the case of a soldier to whom an order made under the proviso to section seventy-six of this Act applies, from the day on which he attains the age of eighteen years¹ and, in the case of any other soldier, from the date of his attestation ; but ”

AMDT. 1/APRIL/1929

26/Manuals/715

For note 1 to Section 79 (page 502), substitute—

1. This para was amended by the A. & A.F. (A) Act, 1929, in order to define clearly the date as from which, in the case of a boy enlisted under the proviso to s. 76, service is to be reckoned for the purpose of discharge or transfer to the reserve.

AMDT. 1/APRIL/1929

26/Manuals/715

Section 83 (page 505). Paragraph (1), line 2. *For “ after ” substitute—*

“ reckoned, in the case of a soldier to whom an order made under the proviso to section seventy-six of this Act applies, from the date of his appointment to a corps and, in the case of any other soldier, from ”

1. This para was amended by the A. & A.F. (A) Act, 1929, in order to define clearly the date as from which, in the case of a boy enlisted under the proviso to s. 76, service is to be reckoned for the purpose of discharge or transfer to the reserve.

AMDT. 1/APRIL/1929

26/Manuals/715

Section 84 (page 508). Subsection (1), line 3. *After* "years"
insert—

"reckoned, in the case of a soldier to whom an order made under the proviso to section seventy-six of this Act applies, from the day on which he attained the age of eighteen years and, in the case of any other soldier,"

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26/Manuals/715

Section 84 (page 508). Subsection (1), lines 8 and 9. *For* "from the date of his attestation," *substitute* "as aforesaid,"

For note 2 to Section 84 (page 508), *substitute—*

2. This subsection was amended by the A. & A.F. (A) Act, 1929, in order to define clearly the date as from which, in the case of a boy enlisted under the proviso to s. 76 time is to be calculated for the purpose of re-engagement after nine years' service.

AMDT. 1/APRIL/1929

26/Manuals/715

Section 85 (page 508). Lines 2 and 3. *For* "a total period of twenty-one years' service," *substitute—*

"the total period of service for which he has re-engaged under the last preceding section of this Act,"

AMDT. 1/APRIL/1929

26/Manuals/715

Section 145. Page 556. *Delete* from "the Army Council" in line 9 to the end of subsection (2) and *substitute—*

"the Army Council or officer shall order to be deducted from the pay of the soldier and to be appropriated in liquidation of the sum adjudged to be paid by such order or decree (including any sum paid on account thereof in accordance with the provisions of subsection (3) of this section), or towards the maintenance of the wife or children of the soldier, as the case may be, in manner directed by the order, such portion of the soldier's pay as the Army Council or officer in their or his discretion from time to time think or thinks fit, but so that there shall be left to the soldier (subject, however, to the making of any other deduction authorised by or under this Act) not less than one-fourth, or, if he is a warrant officer or a non-commissioned officer not below the rank of sergeant, not less than one-third, of his pay."

AMDT. 1/APRIL/1929

26/Manuals/715

Section 145 (page 557). *For* the last two lines of subsection (3) *substitute—*

"the recovery thereof shall be a purpose to which deductions from pay ordered to be made under subsection (2) of this section may be directed by the order to be appropriated."

By Command of the Army Council,

I. Darnley.

THE WAR OFFICE,
30th April, 1929

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 2

1. PART I. CHAPTER XI.

Paragraph 3 (page 221). *For* sub-paragraph (17) *substitute*—

28
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715

"(17) Small Arms School Corps."

2. PART II. ARMY ACT.

(a) Section 44.

Proviso (6) (page 463), line 4. *After* "ordinary pay" *insert* "23A".

Proviso (12), (page 464), line 4. *After* "ordinary pay" *insert* "23A".

Page 466. *Insert* new note—

23A. For definition of "ordinary pay" *see* notes 2 to ss. 137 and 138.

(b) Section 47.

Subsection (2) (page 473), paragraph (c). *After* "ordinary pay" *insert* "2".

Page 474. *Insert* new note—

7. For definition of "ordinary pay" *see* note 2 to s. 138.

(c) Section 137 (page 546). *For* note 2 *substitute*—

Amdt. 2.
June, 1929.

2. *Ordinary pay*.—The term "ordinary pay" means the rate of pay with increases, if any, for length of service, to which an officer in receipt of full pay is entitled by reason of his rank or appointment. (It includes the 25 per cent. addition granted in certain circumstances under Article 505 (b), Pay Warrant, 1926, to retired officers recalled to service, and in the case of such an officer who elects to draw a rate of pay equivalent to service retired pay plus 25 per cent. under Article 505 (g), the whole rate including the 25 per cent. addition is ordinary pay.)

Additional remuneration such as command pay, corps pay, engineer pay, and the various forms of additional pay, though covered by the term "pay" in s. 136, does not fall within the meaning of the term "ordinary pay."

28
Manuals
715

(d) Section 138. *For* note 2 (page 548) *substitute*—

Amdt. 2.
June, 1929.

2. *Ordinary pay*.—The term "ordinary pay" means the rate of pay with increases, if any, after specified periods, to which a soldier during his colour service is entitled by reason of his rank, appointment, trade group or trade classification.

Additional remuneration such as proficiency pay and the various forms of additional pay, though covered by the term "pay" in s. 136, does not fall within the meaning of the term "ordinary pay."

28
Manuals
715

Note 23 (page 550), line 1. For "If" substitute—

Amdt. 2. "Compulsory allotments, compulsory stoppages under a 145 (2) 26
June, 1929. and voluntary allotments in favour of a parent (or grandparent Manuals
if no parent is alive) or of a wife or children for whom marriage 715
allowance is not in issue, take precedence of all other deductions, but the amount thereof may be reduced, if the soldier's account shows a debtor balance, to a sum not exceeding 50 per cent. of the rates laid down in Article 886, Pay Warrant, 1928 (see Appendix V, Pay Warrant). Subject to the foregoing, 1A".

(e) Section 140 (page 551). Subsection (1)—

Line 2. After "ordinary pay" insert "1".

Line 4. After "sums due", for "1" substitute
"1A"

Insert new note (page 552)—

1. Ordinary pay. —For definition see notes 2 to ss. 157 and 158.

Re-number existing note 1 as "1A".

(f) Section 145 (page 557).

Note 4, line 3. For "Army Order 6" substitute
"Army Orders 6 and 83".

3. PART II. RULES OF PROCEDURE.

Rule 16 (page 626). Note 1. Add at end—

Amdt. 2. "If one accused pleads 'Guilty' and another 'Not guilty' 26
June, 1929. the trial of the latter run to and including the finding must Manuals
be carried out before the Court deal with the case of the 715
accused who has pleaded 'Guilty'."

By Command of the Army Council,



THE WAR OFFICE,

30th June, 1929

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 4

PART I

1. CHAPTER III.

Paragraph 3 (page 15), line 5. *For "Cowardice in face of" substitute "Treacherously holding correspondence with".*

26
Manuals
888

Paragraph 4 (page 15), lines 11 and 12.

Delete "s. 6 (1) (k) or".

After "s. 6 (2) (e)" insert "or (h)".

Paragraph 25 (page 20), lines 4 and 5. *For "the penalty of death" substitute "a sentence of penal servitude".*

2. CHAPTER IV.

Page 39, footnote ², line 2. *For "58" (in those copies in which this printer's error occurs) substitute "583"*

3. CHAPTER VI.

Page 72, footnote ¹.

Delete "6 (1) (k)."

After "6 (2) (e)" insert "and (h)".

Paragraph 13 (page 73), line 17.

After "disproved" insert a notation figure "1A".

Insert new footnote—

^{1A} This presumption will not, however, justify a conviction of murder if the evidence given at the trial either for the prosecution or defence raises a reasonable doubt in the minds of the jury as to whether the homicide did or did not amount to murder.

26
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888

Page 91, side heading. *For "Ch. V" substitute "Ch. VI".*

4. CHAPTER VII.

Paragraph 44 (page 116), line 4.

After "responsibility" insert a notation figure "2".

Insert new footnote—

² See, however, footnote 1A on p. 73.

5. CHAPTER VIII.

Paragraph 13 (page 139).

*For the first four lines and side-note substitute—*Amdt. 4.
Aug., 1930.

"13. In *ex-parte Webster* the Supreme Court of New South Wales issued a writ of prohibition to a court-martial restraining the members of the court from proceeding further with the trial on the ground that the court had not been legally convened.³"

Writ of
prohibition
to a court-
martial.26
Manuals
888*Insert new footnote—*³ 10 New South Wales Rep. (1889), p. 79.

6. CHAPTER IX.

Paragraph 105, line 6 from top of page 195. *For* "are" *substitute* "were".

7. CHAPTER X.

Paragraph 33 (page 218)—

Line 3. *For* "workhouse of the parish or union" *substitute* "poor law institution of the area".Line 5. *For* "parish or union" *substitute* "area".

8. CHAPTER XI.

Paragraph 82 (page 239). *Delete* from "The Governments" in line 18 to the end of the paragraph and *insert—*Amdt. 4.
Aug., 1930.

"The Governments of the Dominions of Canada and New Zealand and the Commonwealth of Australia have adopted the Army Act as the basis of their military code. In the two former countries the Act applies, broadly speaking, to the permanent forces at all times and to the non-permanent forces when they are called out for training or active service. In the case of the Commonwealth, the Army Act applies to the military forces, permanent and non-permanent, generally speaking, whilst they are on war service or are serving with the Imperial forces outside Australia. At other times the Commonwealth forces are subject to the Defence Act and Regulations, and under these the provisions of the Army Act and Rules of Procedure regarding courts-martial and investigation of charges apply to the forces even in peace. In the Union of South Africa the Army Act has not been adopted, but the Union Military Code, which applies to the permanent forces at all times, is a modified form of the Act and Rules of Procedure."

26
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888

9. CHAPTER XII.

Paragraph 3 (page 241), lines 7 and 8. *For* "a parish or union" *substitute* "any area or place".

PART II

ARMY ACT

10. ARRANGEMENT OF SECTIONS.

Page 421. Section 91. For "workhouse" substitute "poor law institution".

Page 425. After Section 187A insert—

"Application of Act in relation to Aden ... 187B"

11. Section 4 (page 427). Delete paragraph (7) and the word "or" immediately preceding that paragraph, and insert—

"[Para. (7) transferred to s. 5 by A. and A.F. (A) Act, 1930.]"

Note 2, line 13.

Delete "s. 6 (1) (b) or".

After "s. 6 (2) (e)" insert "or (h)".

Delete note 9.

12. Section 5 (page 428). After paragraph (6) insert—

"or

(7) Misbehaves or induces others to misbehave before the enemy in such manner as to show cowardice⁴,"

Insert new note—

"4. Paragraph (7) is confined to acts, neglect, or omissions which show cowardice, and the particulars of the charge must be framed accordingly (*see, e.g.,* specimen charge-sheet No. 4, p. 715). It must be shown that the accused, from an unsoldierlike regard for his personal safety in the presence of the enemy, failed in respect of some distinct and feasible duty imposed upon him by a specified order or regulation, or by the well-understood custom of the service, or by the requirements of the case, as applicable to the position in which he was placed at the time. Misbehaviour of any kind not evidencing cowardice cannot be charged under this paragraph."

13. Section 6 (pages 428-9).

Subsection (1).

Delete paragraph (b) and insert—

"[Paras. (b), (h) and (k) transferred to subs. (2) by A. and A.F. (A) Act, 1930.]"

Delete paragraphs (h) and (k), and the word "or" immediately preceding the last mentioned paragraph.

Subsection (2). After paragraph (e) insert—

"or

(f) Without orders from his superior officer, leaves his guard, piquet, patrol or post²; or

(g) By discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever³, intentionally⁴ occasions false alarms in action, on the march, in the field, or elsewhere⁵; or

(h) Being a soldier acting as sentinel, leaves his post⁷ before he is regularly relieved."

Amdt. 4.
Aug., 1930.

26
Manuals
888

Amdt. 4.
Aug., 1930.

26
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Aug., 1930.

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888

14. Section 12 (page 437).
Subsection (1), line 9. *For* "death" *substitute* "penal servitude".

15. Section 44 (page 465).

Note 7—

Line 2. *Delete* "in the case of an officer".

Line 6. *After* "officer" *insert* "or N.C.O."

Note 12, line 1. *Add* "See also note 7 above."

Note 13. *Add* at end—

"As regards temporary rank, *see* notes 3 and 6 to s. 183."

16. Section 46 (page 470). Note 4, line 13. *After* "below.)" *insert*—

"As regards temporary rank, *see* note 3 to s. 183."

17. Section 57A (page 488). Note 7. *For* the portion in brackets *substitute*—

"(See A.Os. 121 of 1928, 103 and 197 of 1929.)"

18. *For* Section 91, and notes thereto, (pages 512–3), *substitute*—

Amdt. 4.
Aug., 1930.

91.—(1) The Army Council or any officer deputed by them for the purpose may, if they or he think proper, on account of a soldier's lunacy¹, cause any soldier of the regular forces on his discharge, and his wife and child, or any of them (being in such a state of health as not to be liable to suffer bodily or mental injury by removal) to be sent to the poor law area in England, Scotland or Northern Ireland to which, under the statutes for the time being in force, he appears from the statements made in his attestation paper and other available information to be chargeable; and such soldier, wife, or child, if delivered after reasonable notice, in the case of England or Scotland, at any institution of the poor law authority of the said area, or, if a particular institution has been designated for the purpose by the clerk to that authority, at that institution, and, in the case of Northern Ireland, at the institution in which persons settled in the said poor law area are received, shall be received by the master or other proper officer of the institution:

Provided that the Army Council, or officer deputed by them for the purpose, if satisfied that the soldier is a dangerous lunatic may by order in writing cause him to be sent direct, in the case of England or Scotland, to any asylum in which lunatics who are in an institution of, or are chargeable to, the said poor law area may lawfully be received, or, if a particular asylum has been designated for the purpose by the clerk to the poor law authority of the area, to that asylum, and, in the case of Northern Ireland, to the asylum of the district in which the said poor law area is situate.

(2) The clerk to any poor law authority in England or Scotland shall, on receiving a request from the Army

Council or officer deputed by them for the purpose, forthwith designate to them or him an institution of the authority, or, as the case may be, an asylum in which lunatics who are in an institution of, or are chargeable to, the area of the authority may lawfully be received, as being a convenient institution or asylum for the reception of any person mentioned in the request.

(3) In this section the expression "poor law area" means, in the case of England, a county or a county borough, in the case of Scotland, a county or a large burgh, within the meaning of the Local Government (Scotland) Act, 1929, and, in the case of Northern Ireland, a poor law union; the expression "poor law authority" means, in relation to a county, county borough or large burgh, the council thereof and in relation to a poor law union, the board of guardians thereof; and the expression "institution" means, in the case of England or Northern Ireland, a workhouse, and, in the case of Scotland, a poorhouse.

(4) An order made under the proviso to sub-section(1) of this section shall be of the like effect, and the like proceedings shall be taken thereon, as if it were, in the case of a lunatic sent to an asylum in England, a summary reception order made under the Lunacy Act, 1890, in the case of a lunatic sent to an asylum in Scotland, an order of the sheriff made under section fifteen of the Lunacy (Scotland) Act, 1862, and in the case of a lunatic sent to an asylum in Northern Ireland, a warrant granted by two justices under section ten of the Lunacy (Ireland) Act, 1867; and for the purposes of any enactment relating to the cost of the maintenance of any such lunatic, the poor law area to which in the opinion of the Army Council, or officer deputed by them, the lunatic is chargeable shall be deemed to be the place from which he was sent to the asylum.

NOTE.

1. See further as to lunatic soldiers, K.R. 388-391.

19. Section 138 (page 548). *For* paragraph (7) *substitute*—

"(7) The sum required to pay any fine awarded by a court martial or his commanding officer, or any fine, penalty, damages, compensation, or costs which a civil court before which he has been charged with an offence has ordered him to pay;"¹ and "

Add at end of note 21 (page 550)—

"As to recovery of damages, compensation or costs awarded against a soldier by a civil court, see K.R. 572 (c)."

20. Section 145 (page 555).

Subsection (1), last line. *For* "any union, parish or place" *substitute* "any area or place"

Note 4 (page 557), line 3. *For* the portion in brackets *substitute* "(See A.Os. 6, 83 and 196 of 1929, 54 of 1930)"

Amdt. 4.
Aug., 1930.

26
Manuals
888

21. Section 157 (page 564). 3rd paragraph of Note, line 2. *After* "by" *insert* "or on behalf of".

22. Section 182 (page 594). Note 3. *Add at end*—
"As regards temporary rank, *see* notes 3 and 6 to s. 183."

23. Section 183 (page 595).
Note 3. *Add at end*—

Amdt. 4.
Aug., 1930.

"So long as the conditions obtain under which temporary rank is held (K.R. 255 (a)), such rank must be dealt with as though it were substantive. Consequently a N.C.O. holding temporary rank cannot be ordered by his C.O. to revert to any lower rank on grounds of inefficiency or unsuitability, or by way of punishment for an offence. (K.R. 273 (d).)"

26
Manuals
888

Note 6, line 3. *Delete* "not being legally a rank under the K.R."

Add at end of note 6—

Amdt. 4.
Aug., 1930.

"As regards temporary rank, *see* note 3 above
A N.C.O. holding temporary rank may legally be sentenced by court-martial to be reduced to a lower temporary or permanent rank, or to the ranks. For example, a temporary sergeant whose permanent rank is corporal may be sentenced to be reduced to the rank of corporal, or to the ranks. If, however, he holds no permanent rank above that of private he can only properly be sentenced to be reduced to the temporary rank of corporal, or to the ranks; a sentence of reduction to the rank of corporal in such circumstances would be deemed to be reduction to the temporary rank of corporal."

26
Manuals
888

Note 7, line 1. *For* "substantive" *substitute* "permanent or temporary".

24. *After* Section 187A (page 599), *insert new Section*—

Amdt. 4.
Aug., 1930.

187b.—(1) This Act shall apply in relation to Aden as if it were a colony and as if the Resident and Commander-in-Chief or, in his absence, the person acting as such, were the Governor thereof.

Application of Act
in relation
to Aden.

(2) In this section the expression "Aden" includes any dependency of Aden, but does not include the Aden Protectorate.

26
Manuals
938

RULES OF PROCEDURE—FIRST APPENDIX

25. NOTE AS TO USE OF FORMS OF CHARGES (page 700).

Note (11), line 2—

S.R.O. 393.
1930.

Delete "s. 6 (1), (h)."

After "s. 6 (2), (d)," *insert* "and (g)."

26. *Statement of Offence* (pages 704–5).

Section 4. *Delete* paragraph (7).

Section 5. *After* paragraph (6) *insert*—

"(7.) When on active service {misbehaving
inducing others to misbehave} before the enemy in such manner as to show cowardice."

Section 6.

Subsection (1). *Delete* paragraphs (b), (h) and (k).

Subsection (2). *After paragraph (c) insert—*

- "(f) [When on active service,] leaving his
guard
pique
patrol
post
} without orders from his superior officer.
- (g) [When on active service,] by
discharging firearms
drawing swords
beating drums
making signals
using words
[any means whatever]
} intentionally occasioning false alarms
{ in action.
on the march.
in the field.
[elsewhere].
- (h) When a soldier acting as sentinel [on active service] leaving his post before he was regularly relieved."

[Note.—These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 4), 1930.]

27. SPECIMEN CHARGES (pages 715-7).

Delete Specimen Charge No. 2.

Re-number Specimen Charges Nos. 3 and 4 as Nos. 2 and 3, respectively.

Insert new Specimen Charge—

No. 4.

CHARGE-SHEET.

Amdt. 4.
Aug., 1930

The accused, No. , Private
Battalion, Regiment, a soldier of the Regular
Forces, is charged with—

When on active service, misbehaving before the enemy in such manner as to show cowardice, Sec. 5 (7),
Army Act.
in that he, at , on , during an attack
on , and when under the enemy's fire, fell
out of the ranks, ran away and secreted himself under
a bank.

Delete Specimen Charges Nos. 5 and 6.

Re-number Specimen Charges Nos. 7, 8, 9, 10 and 11 as Nos. 5, 6, 7, 8 and 9, respectively.

Insert new Specimen Charges—

No. 10.

CHARGE-SHEET.

Amdt. 4
Aug., 1930

The accused, No. , Private
Battalion, Regiment, a soldier of the Regular
Forces, is charged with—

[When on active service] by discharging firearms, Sec. 6 (2) (g)
Army Act.
intentionally occasioning false alarms on the march,
in that he, on , when on the march with
his Battalion between and , by
intentionally discharging his rifle occasioned a false
alarm.

No. 11.

CHARGE-SHEET.

The accused, No. , Private
Battalion, Regiment, a soldier of the Regular
Forces, is charged with—

When a soldier acting as sentinel [on active service] leaving his post before he was regularly relieved, Sec. 6 (2) (h)
Army Act.
in that he, at , after being
Guard left

28. DISCIPLINARY REGULATIONS AND. ORDERS.

Amdt. 4
Aug., 1930

Page 810. Below "Secretary." in line 22 insert—
"Order made on the 22nd December, 1928, by the
Admiralty and the Army Council under Clause 1 of
the Conditions set out above.

Whenever any naval prisoners or naval ratings ^{Army} sentenced to detention are committed to any prison or ^{Order 7 of} 1929. detention barrack, the governor, commandant, officers or staff of which are officers, warrant officers or non-commissioned officers of a body of His Majesty's military forces, then for the purposes of command and discipline and for the purposes of the provisions of the Naval Discipline Act relating to superior officers, such officers, warrant officers or non-commissioned officers of His Majesty's military forces shall, in relation to such naval prisoners or naval ratings undergoing detention as aforesaid during the period that they are committed as aforesaid, be treated, and have all such powers (other than powers of punishment) as if they were naval officers, warrant officers or petty officers, provided that nothing herein contained shall derogate from any powers of punishment which such officers, warrant officers or non-commissioned officers may have under or by virtue of any rules made pursuant to Section 132 of the Army Act."

Page 815. Delete the Order made on the 10th November, 1919 (A.O. 408 of 1919).

By Command of the Army Council,

H. J. Greedy

THE WAR OFFICE,
31st August, 1930

LONDON

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26
Manuals
888

1.
Page
For
For
Page 97.
For "124"
2 CHAPTER I
Page 127, foot.
delete "125 (D), 1.
3 CHAPTER XI.
Delete paragraph 75

4 Section 29 (page
Line 4. For "124"
124 (C)".
Line 11. For "12"
5 Section 33 (page
4. The alterations
the nature of the
up. That owing to diffi-
to prefer a change in trans-
6 Section 72 (page
Note 2. For "12"
Note 7, line 3. F.

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 5

PART I

1. CHAPTER VI.

Page 93, footnote ⁴.

For " 124 (L) " substitute " 125A (G) ".

For " note 3 " substitute " note 4 ".

26
<u>Manuals</u>
967

Page 97, footnote ³.

For " 124 (L) " substitute " 125A (G) ".

2. CHAPTER VII.

Page 127, footnote ¹. *For " 124 (H), 125 (E) " substitute " 125 (D), 125A (C) ".*

3. CHAPTER XI.

Delete paragraph 75 and footnote on page 237.

PART II

ARMY ACT

4. Section 29 (page 452). Note 1.

Line 4. *For " 124 (II), 125 (E) " substitute " 125 (D), 125A (C) ".*

Line 11. *For " 124 (H) " substitute " 125A (C) ".*

5. Section 33 (page 456). *For note 4 substitute—*

4. The attestation paper, by a change made in 1930, emphasizes the serious nature of the offence of making a false answer as to age. But owing to difficulty of proof, it may seldom be practicable to prefer a charge in respect of this offence.

26
<u>Manuals</u>
967

6. Section 72 (page 498).

Note 3. *For " 125 " substitute " 124 and 125 ".*

Note 7, line 3. *For " 125 (C) " substitute " 125 (E) ".*

*Amdt. 5.
Jan., 1931.*

S.R.O. 21.
1931.

RULES OF PROCEDURE.

7. Page 614. *Delete* Rules 124 and 125 and the italicized headings thereto, and *insert*—

Courts of Inquiry.

(i) *General.*

Amdt. 5.
Jan., 1931.

124. Courts of inquiry. General.

26
Manual
967

(ii) *Courts of Inquiry under Section 72 of the Army Act for the purpose of determining the illegal absence of soldiers.*

125. Courts of inquiry as to illegal absence under Army Act, s. 72.

(iii) *Courts of Inquiry other than those held under Section 72 of the Army Act.*

125A. Courts of inquiry other than those held under Army Act, s. 72.

8. Rule 8 (page 621). Note 3, last line. For "124 (x)" *substitute* "125A (ii)".

9. *Delete* Rule 124 (pages 687-8) and the italicized heading and the notes thereto, and *substitute*—

Courts of Inquiry.

(i) *General.*

124.—(A) A court of inquiry¹ is an assembly of Courts of officers, or of one or more officers together with one or more warrant or non-commissioned officers, directed to collect and record evidence, and, if and as required, to report or make a declaration with regard to any matter which may be referred to them. Inquiry.
General.

(B) A court of inquiry may be assembled by the Army Council or by the officer in command of any body of troops.

(C) The court will be composed of two or more members,² each of whom may be of any branch or arm of the service, according to the nature of the investigation.

(D) Previous notice should be given of the time and place of meeting of a court of inquiry, and of all sittings of the court, to all persons concerned in the inquiry.

(E) It is the duty of a court of inquiry to put such questions to a witness as they may think desirable for the purpose of testing the truth or accuracy of any evidence he has given, and otherwise for eliciting the truth.

(4) The whole of the proceedings will be forwarded by the president to the court.

1. In practice as to courts of inquiry of members of the court-martial, and of courts and that of a court of inquiry has been referred to. In the regulations, 1909, para. 1. The court should be held (S. 72).

M. Delete Rule 124. The court should be held (S. 72).

(4) Court of Inquiry.

125.

Army.

as to the

of the

of the

(f) The whole of the proceedings of a court of inquiry will be forwarded by the president to the authority who assembled the court.

1. See generally as to courts of inquiry, K.E. 733-743. For disqualification of members of courts of inquiry for service on subsequent courts-martial, see r. 19 (B) (iii). As to privilege of report of court and that of witnesses, see Ch. VIII, paras. 48-53.

A court of inquiry has no power to compel the attendance of civilian witnesses. As to expenses of witnesses, see Allowance Regulations, 1930, paras. 270, 271.

2. The court should normally consist of three members (K.E. 733).

10. *Delete* Rule 125 (pages 688-9) and the italicized heading thereto (*retaining* the notes on page 689), and *insert*—

(ii) *Courts of Inquiry under Section 72 of the Army Act for the purpose of determining the illegal absence of soldiers.*

125.—(A) A court of inquiry under Section 72 of the Army Act¹ will require the attendance of such witnesses as they may think sufficient to prove the absence and other facts specified as matters of inquiry in that section.²

Courts of inquiry as to illegal absence under Army Act, s. 72.

(B) They will take down in writing the evidence given before them, and at the end of the proceedings they will make a declaration³ of the conclusions at which they have arrived in respect of the facts into which they are assembled to inquire.

(C) They will examine all witnesses who may be desirous of coming forward on behalf of the absentee, and will put such questions to them as may be desirable for testing the truth or accuracy of any evidence they may have given, and otherwise for eliciting the truth, and the court, in arriving at their conclusions, will give due weight to the evidence of all such witnesses.

(D) The court will administer the same oath⁴ or solemn declaration to the witnesses as if the court were a court-martial, but the members will not themselves be sworn.

(E) The commanding officer of the absent soldier will enter in the regimental books a record of the declaration of the court, and the original proceedings will be destroyed.

(F) The soldier, the subject of the inquiry, will be entitled to a copy of the declaration of the court, to be supplied by the person having custody of the regimental books, on payment of the actual cost of the copy required, not exceeding twopence for every folio of 72 words.

11. *After Rule 125 and notes thereto (page 689) insert—*

(iii) *Courts of Inquiry other than those held under Section 72 of the Army Act.*

Courts of
inquiry
other than
those held
under
Army Act,
s. 72.

125A.—(A) The court will be guided by the written instructions of the authority who assembled the court. The instructions will be full and specific, and will state the general character of the information required. They will also state whether a report is required or not.

(B) Whenever any inquiry affects the character or military reputation of an officer or soldier, full opportunity must be afforded to the officer or soldier of being present throughout the inquiry, and of making any statement and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence, in his opinion, affects his character or military reputation, and of producing any witnesses in defence of his character or military reputation.

The president of the court will take such steps as may be necessary to ensure that any person so affected, and not previously notified, receives notice of his rights under this rule and will satisfy himself that he fully understands them.¹

(C) When a court of inquiry is held on recovered prisoners of war, and in any other case in which the authority who assembled the court has so directed, the evidence will be taken on oath, in which case the court will administer the same oath² or solemn declaration to witnesses as if the court were a court-martial.

(D) The authority who assembled the court will, when the court is held on a returned prisoner of war, direct the court to record their opinion whether the officer or soldier concerned was taken prisoner by reason of the chances of war, or through neglect or misconduct on his part, and the authority who assembled the court will record his own opinion.

(E) The members of the court will not themselves be sworn, but when the court is a court of inquiry on recovered prisoners of war the members will make the following declaration :—

I, A.B., do declare upon my honour that I will duly and impartially inquire into and give my opinion as to the circumstances in which became a prisoner of war, according to the true spirit and meaning of His Majesty's Orders and Regulations on this head; and I do further declare, upon my honour, that I will not on any account, or at any time, disclose or discover my own vote or opinion, or that of any particular member of the court, unless required to do so by competent authority.

(f) A court may be re-assembled as often as the authority who assembled the court may direct, for the purpose of examining additional witnesses, or further examining any witness, or recording further information. They may also be directed to make such further report or reports as may be required.

(g) Except upon the trial of any officer or soldier under Section 29 of the Army Act, for wilfully giving false evidence before the court,³ the proceedings of a court of inquiry, or any confession, statement, or answer to a question made or given at a court of inquiry, shall not be admissible in evidence against an officer or soldier, nor shall any evidence respecting the proceedings of the court be given against any officer or soldier.⁴

(h) An officer or soldier who is tried by court-martial in respect of any matter or thing which has been investigated by a court of inquiry, and unless the Army Council see reason to order otherwise, an officer or soldier whose character or military reputation is, in the opinion of the Army Council, affected by anything in the evidence before, or in the report of, a court of inquiry, shall be entitled to a copy of the proceedings of the court, including any report made by the court, on payment of the actual cost of the copy required, not exceeding twopence for every folio of 72 words.

1. Whenever it appears possible that the character or military reputation of an officer or soldier may be affected as the result of a court of inquiry, the authority who assembles the court will take all necessary steps to secure that the provisions of this rule are observed. The ultimate responsibility of ensuring that they are observed in every case will, however, rest upon the president of the court, and should it transpire during the sitting of the court that the character or military reputation of any officer or soldier is affected by the evidence put forward, the president will immediately arrange for such officer or soldier to be afforded the full facilities of the rule, adjourning the court if necessary for the purpose of securing his attendance.

2. See r. 82, and as to form of oath, etc., see App. II, p. 763.

3. A charge can only be laid under A.A. 29 if the evidence before the court of inquiry was properly given on oath, i.e., if under para. (c) of this rule it was required to be so taken.

4. This privilege, however, extends only to military tribunals. If a person is being tried in an ordinary criminal court, statements made by him voluntarily before a court of inquiry may be given in evidence against him; *R. v. Colpus*, L.R. (1917), 1 K.B. 574.

12. Rule 126 (h) (pages 689-690). Lines 6-9. *Delete* the words "the officer in charge of administration of that command;" where they twice occur.

[*Note.*—These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 5), 1931.]

DISCIPLINARY REGULATIONS AND ORDERS.

13. Page 810. *Below* the Order made on 22nd December, 1928, by the Admiralty and the Army Council (as promulgated by Amendments No. 4, notified in Army Order 150 of 1930) *insert*—

"Order made on the 7th July, 1930, by the Admiralty and the Army Council under Clause 1 of the Conditions set out above."

Amdt. 5.
Jan., 1931.

Whenever any body of His Majesty's naval forces not under the charge of a commissioned naval officer and any body of His Majesty's military forces under the charge of a commissioned military officer are being conveyed together on board any transport or freight ship, or whenever any body of His Majesty's military forces not under the charge of a commissioned military officer and any body of His Majesty's naval forces under the charge of a commissioned naval officer are being conveyed together on board any transport or freight ship, Section 90A of the Naval Discipline Act and Section 184A of the Army Act shall apply to and in relation to such bodies and the officers, warrant officers and non-commissioned officers and men who are members thereof."

26
Manuals
907
Army
Order 154
of 1930.

By Command of the Army Council,

H. J. Greedy

THE WAR OFFICE,

31st January, 1931.

LONDON

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 6

PART I

1. Chapter VI.

Paragraph 65 (page 88).

Line 3. *For "lunacy" substitute "unsoundness of mind".*

28
Manuals
1011

Line 5. *For "alleged lunatic" substitute "accused person".*

Paragraph 88 (page 95).

Line 3. *For "lunatic" substitute "person of unsound mind".*

2. Chapter VII.

Paragraph 25 (page 109).

Line 12. *For "lunatic" substitute "person of unsound mind".*

Paragraph 31 (page 112).

Line 9. *For "lunatic" substitute "person of unsound mind".*

3. Chapter X. *For paragraph 33 (page 218) and marginal heading substitute—*

mt. 6.
1931. **33.** If a soldier is of unsound mind, the Army Council or an officer deputed by them may, on his discharge, send him, and also his wife and child, to the poor law institution of the area to which he is chargeable, and if he is a dangerous patient may send him to the mental hospital for persons of unsound mind chargeable to that area.⁵

Disposal of soldiers of unsound mind.
--

PART II

ARMY AND AIR FORCE (ANNUAL) ACT

4. Page 416. *For footnote 1 substitute—*

Amdt. 6.
May, 1931. 1 In the Army and Air Force (Annual) Act, 1931, the express reference to Ireland has been altered to Northern Ireland, the Irish Free State being left to fall within the general words "elsewhere, whether within or without His Majesty's dominions," but the actual wording of the Annual Act for 1931, being concerned with the transition from one system to the other, is of a special and transitory nature and is not, therefore, reproduced here. Steps will be taken to amend pp. 415-7 when the phraseology of the Act again becomes standardized.

ARMY ACT.

5. Page 421. *For particulars pertaining to Section 91 substitute—*

Amdt. 6.
May, 1931. Delivery of soldier of unsound mind on discharge with his wife or child at poor law institution, or of dangerous person of unsound mind at mental hospital.

6. Section 79 (page 502). Proviso.

Line 1. *For "restore" substitute—*

Amdt. 6.
May, 1931. "by general or special regulations provide for the restoration of".

Lines 3 and 4. *Delete "by the Army Council".*

7. Section 85 (page 508).

Lines 2 and 3 (as amended by Amendments No. 1 notified in Army Order 76 of 1929). *For "the total period of service for which he has re-engaged under the last preceding section of this Act, inclusive of any period served in the reserve¹, substitute—*

Amdt. 6.
May, 1931. "a total period of twenty-one years service inclusive of any period served in the reserve¹, but exclusive, in the case of a soldier to whom an order made under the proviso to section seventy-six of this Act applies or has applied, of any period during which he was under eighteen years of age,".

8. Section 91 (as amended by Amendments No. 4 notified in Army Order 150 of 1930) (pages 512-3).

For the marginal heading substitute—

Amdt. 6.
May, 1931. Delivery of soldier of unsound mind on discharge with his wife child at poor law institution, or of dangerous person of unsound mind at mental hospital.

Subsection (1).

Line 3. *For "lunacy" substitute "unsoundness of mind".*

Line 23. *For "lunatic" substitute "person of unsound mind".*

Lines 25, 27, 29 and 30. *For "asylum" substitute in each instance "mental hospital".*

Line 25. *For "lunatics" substitute "persons of unsound mind".*

Subsection (2).

Line 5. *For "an asylum" substitute "a mental hospital".*

Line 6. *For "lunatics" substitute "persons of unsound mind".*

Line 8. *For "asylum" substitute "mental hospital".*

Subsection (3).

Line 10. *Delete "and".*

Add at end of subsection—

" ; and the expressions 'person of unsound mind' and 'mental hospital' mean in the case of Scotland or Northern Ireland 'a lunatic' and 'an asylum' respectively."

26
Manuals
1011

Subsection (4).

Line 4. *For "lunatic" substitute "person of unsound mind".*

Lines 4, 6 and 9. *For "an asylum" substitute in each instance "a mental hospital".*

Line 6. *For "a lunatic" substitute "such a person".*

Lines 8 and 9. *For "a lunatic" substitute "such a person".*

Lines 13 and 15. *For "lunatic" substitute in each instance "person".*

Line 16. *For "asylum" substitute "mental hospital".*

NOTE 1. *For "lunatic soldiers" substitute "soldiers of unsound mind".*

9. Section 123 (page 538). Note 1. Line 9. *After "lieutenant-colonel" insert—*

"provided that they hold an executive command (K.R. 614A)."

10. Section 130 (page 542).

Sub-section (5). Line 9. *For "an asylum" substitute "a mental hospital".*

11. Section 158 (page 565). *For note 3 substitute—*

3. Subs. (2) deals with the case of a person who is tried and sentenced whilst still subject to military law. Under this enactment the Act applies to the offender during the term of his sentence, notwithstanding that his discharge or dismissal from the service has been formally carried out, or that he has otherwise ceased to be subject to military law. Consequently he may be tried by Court-Martial for an offence committed by him at any time before

26
Manuals
1011

12. Section 161 (page 566).

Line 16. *For* "restore" *substitute*—

Amdt. 6.
May, 1931.

"by general or special regulations provide for the restoration of".

Line 18. *For* "good or faithful" *substitute* "good and faithful".

Last line. *Delete* "by the Army Council".

13. Section 189 (page 600). *For* note 1 *substitute*—

Amdt. 6.
May, 1931.

1. Troops may be on active service even before embarkation for the seat of war if the circumstances are such that they can reasonably be held to be attached to or to form part of a force such as is specified in this subsection. Under the provisions of section 188 such troops, if on active service at the port of embarkation, would continue to be on active service during the voyage.

RULES OF PROCEDURE.

14. Rule 44 (page 649). *Add* at end of note 6—

Amdt. 6.
May, 1931.

A special finding cannot be made under this rule on a plea of "Guilty" being recorded.

26
Manuals
1011

By Command of the Army Council,

H. J. Creedy

THE WAR OFFICE,
31st May, 1931.

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 7

PART I.

1. CHAPTER II.

Page 14. For footnote 5 substitute—

"5. See A. & A.F. (A) Act, 1932, s. 15 (1)."

2. CHAPTER III.

Paragraph 30, line 7. For "money or goods" substitute "property".

Paragraph 31—

Lines 4 and 5. For "care of public or regimental money or goods" substitute "care or distribution of public, regimental or garrison property".

Line 6. For "money or goods" substitute "property".

Paragraph 32—

Line 4. For "money or goods" substitute "property".

Line 5. For "institution, mess or band," substitute "band, regimental or garrison mess, regimental or garrison institution,"

Paragraph 50, lines 9 and 10. For "mess or band, or of a regimental institution" substitute—

"band, regimental or garrison mess, regimental or garrison institution, or of the Navy, Army and Air Force Institutes,"

Paragraph 63, lines 5 and 6. For "reprimand or severe reprimand" substitute "be severely reprimanded or reprimanded".

3. CHAPTER IV.

Page 35. Footnote 5. Delete "7".

Paragraph 26. Delete from "except" in line 7 to "claim" in line 9.

Page 37. Footnote 2. Delete "R.P. 7;"

4. CHAPTER V.

Paragraph 25. Add at end—

"Similar notice should be given to the accused in cases where the convening officer intends to appoint or apply for the services of an officer holding legal qualifications to act as prosecutor at the trial."

110

General
4673

Amdt. 7.
June, 1932.

110

General
4673

Amdt. 7.
June, 1932.

5. CHAPTER VII.

Paragraph 1, line 1. *For* "The first forty sections" *substitute* "Sections 4 to 40".

Paragraph 3, line 9. *After* "India," *insert* "in the Dominions,"

Page 103. Footnote 1. *For* "41 (b)" *substitute* "41A".

Page 118. *Add* at end of footnote 2—

110
General
4673

"The expression 'steals' in the Army Act has the same meaning:" *Amdt. 7.*
see A.A., s. 100 (33A). June, 1932.

6. CHAPTER VIII.

Paragraph 45. Fifth line from bottom of page 155. *After* "breach;" *insert* "and".

Delete from "and" in last line of page 155 to "option" in first line of page 156.

7. CHAPTER X.

Paragraph 23, line 22. *After* "India," *insert* "the Dominions,"

8. CHAPTER XII.

Page 241. Footnote 2, line 1. *After* "41," *insert* "41A,"

PART II.

9. ARMY AND AIR FORCE (ANNUAL) ACT.

Page 415. In the heading, and in the last line of the Note, *for* "1928" *substitute* "1932".

Preamble to the Act.

Lines 8 and 9. *For* "fifty-three thousand five hundred" *substitute* "forty-eight thousand seven hundred".

Line 12. *After* "possessions" *insert* ", other than Aden".

Page 416—

Line 1. *Delete* "five hundred".

Delete from "and the provisions" in line 3 to "Act" in line 4.

Line 30. *For* "twenty-eight" *substitute* "thirty-two".

Line 32. *For* "Ireland" *substitute* "Northern Ireland".

Section 1. *For* "1928" *substitute* "1932".

Section 2. *Delete* subsection (1) and *substitute*—

"(1) The Army Act and the Air Force Act shall be and remain in force during the periods herein-after mentioned, and no longer, unless otherwise provided by Parliament, that is to say:—

(a) Within Great Britain and Northern Ireland, the Channel Islands, and the Isle of

110
General
4673

Amdt. 7.
June, 1932.

Man, from the thirtieth day of April, one thousand nine hundred and thirty-two, to the thirtieth day of April, one thousand nine hundred and thirty-three, both inclusive; and

(b) Elsewhere, whether within or without His Majesty's dominions; from the thirty-first day of July, one thousand nine hundred and thirty-two, to the thirty-first day of July, one thousand nine hundred and thirty-three, both inclusive."

Delete footnote 1.

Section 3, last line. *For "1923" substitute "1932".*

First Schedule. Column 2, line 15. *For "fivepence" substitute "threepence".*

THE ARMY ACT.

10. ARRANGEMENT OF SECTIONS (pages 418-425).

Delete particulars in respect of the following Sections and substitute—

	SECTION.	
<i>110 General 4672</i> Fraud by persons in charge of property ...	17	<i>Amdt. 7. June, 1932.</i>
Transfer of soldier to reserve when corps ordered out of the United Kingdom ...	89	
Discharge or transfer to reserve ...	90	
Suspension of enactments as to billeting ...	102	
Lists of carriages and horses and of persons liable to furnish carriages and animals ...	114	
Supplemental provisions as to deductions from ordinary pay ...	140	
Exemption from jury service ...	147	
Extension of furlough in case of sickness ...	173	
Licences of canteens in Northern Ireland...	174	
Entertainments under Service direction ...	174A	
Modification of Act with respect to His Majesty's forces when serving in India and His Majesty's Indian forces ...	180	
Special provisions as to prisoners and prisons in Northern Ireland ...	185	
Application of Act to mandated territories	187A	

After Section 41 insert new Heading and Section—

*110
General
4672* "Saving for Jurisdiction of Civil Courts. Saving for jurisdiction of civil courts ... 41A" *Amdt. 7.
June, 1932.*

After Section 68 insert new Heading and Section—

*110
General
4672* "Application of certain Provisions of Act in a Dominion. Application of certain provisions of Act in a Dominion ... 68A" *Amdt. 7.
June, 1932.*

SECTION.

Re-number Section 179B as Section 179C,
and *insert*—

"Attaching of officers and soldiers to
Dominion forces 179B "

After Section 187B (as promulgated by
Amendments No. 4 notified in Army
Order 150 of 1930) *insert*—

"Application of Act to certain Dominions 187C"

11. Page 426. *Delete* existing footnote and *substitute*—

110
General
4873

"The amendments to the Act made by the Army and Air Force (Annual) Act, the T.R.F. Act, 1907, the Air Force (Constitution) Act, 1917, and the Territorial Army and Militia Act, 1921, are incorporated in accordance with the directions in 23 Geo. v. c. 22, s. 15."

Amtd. 7.
June, 1921

12. Section 4.

Paragraph (6), lines 2 and 3. *For* "or any part thereof" *substitute* ", or any forces co-operating therewith, or any part of any such force".

13. Section 6. Subsection (3).

Paragraph (d), line 2. *After* "forces" *insert* ", whether His Majesty's forces or forces co-operating therewith".

Paragraph (e), line 3. *For* "the forces" *substitute* "any such force as aforesaid".

14. Section 7.

Paragraph (1), line 3. *After* "forces" *insert* " (including any Dominion force)".

Paragraph (2). *For* "any of His Majesty's military, naval, or air forces" where those words twice occur, *substitute* "any such force as aforesaid".

Paragraph (3). *For* "any forces belonging to any of His Majesty's military, naval, or air forces" *substitute* "any such force as aforesaid".

Paragraph (4). *For* "any forces belonging to any of His Majesty's military, naval, or air forces" *substitute* "any such force as aforesaid".

15. Section 11.

Lines 9 and 10. *For* "His Majesty's regulations and orders for the army or any similar order" *substitute* "the King's Regulations for the Army, or any order".

16. Section 17.

Line 4. *For* "public or regimental money or goods," *substitute* "public, regimental or garrison property,"

Line 8. *For* "goods" *substitute* "property".

Note to Section 17.

Second paragraph, line 2. *After* "also" *insert* "s.190(33A) and".

Third paragraph, line 3. *For* "or regimental" *substitute* ", regimental or garrison".

Fourth paragraph, line 2. *For* "money or goods" *substitute* "property".

Fifth paragraph, line 3. *For "money" substitute "property".*

Eighth paragraph, line 2. *For "money or goods" substitute "property".*

Delete tenth paragraph.

Marginal heading. *For "moneys or goods" substitute "property".*

17. Section 18.

For paragraph (4) substitute—

"(4) Steals,^a embezzles or fraudulently mis-applies⁷ or receives, knowing it to have been stolen or embezzled, any property belonging to a person subject to military law,⁸ or belonging to any regimental band, regimental or garrison mess or regimental or garrison institution,⁹ or to the Navy, Army and Air Force Institutes, or any public property;¹⁰ or "

Insert at beginning of Note 6—

"For definition of *steals* see s.190(33A)."

Delete first paragraph of Note 9.

18. Section 23.

Paragraph (2), line 6. *After "forces" insert "(including any Dominion force)".*

19. Section 24.

Paragraph (4), lines 3 and 4. *For "mess or band, or to any regimental institution," substitute—*

"band, regimental or garrison mess, or regimental or garrison institution, or to the Navy, Army and Air Force Institutes,"

Note 5, line 1. *Delete "money or"*

20. Section 32.

Sub-section (2), lines 3 and 4. *Delete "discharged as incorrigible and worthless,"*

Delete Note 8.

21. Section 40.

Line 10. *For "part" substitute "section".*

22. Section 41. Proviso.

For the words "Provided as follows:—(a) A person" substitute "Provided that a person".

Delete proviso (b).

Note 1, line 3. *For "proviso (a)" substitute "the proviso".*

Note 2. *For "provisos (a) and (b)" substitute "the proviso to this section, and s.41A"*

In line 6 of the proviso as amended, *after "dominions" insert a notation figure "6"*

Insert new note—

"6. The expression 'His Majesty's dominions' here and throughout the Army Act includes all His Majesty's dominions inclusive (unless inconsistent with the context) of the Dominions as defined by s. 190 (23)."

*Amdt. 7.
June, 1932.*

*Amdt. 7.
June, 1932.*

*Amdt. 7.
June, 1932.*

23. After Section 41 and Note thereto, insert new Heading and Section—

"Saving for Jurisdiction of Civil Courts."

Saving for
jurisdiction
of civil
courts.

41A. Nothing in this Act affects any jurisdiction of any civil court to try a person subject to military law for any offence." Amdt. 7.
June, 1962

24. Section 44.

For sub-paragraph (g) substitute—

"(g) Severe reprimand or reprimand;"

For sub-paragraphs (m) and (mm) substitute—

"(m) In the case of a non-commissioned officer, reduction¹³ to the ranks or to a lower grade, or forfeiture, in the prescribed manner, of seniority of rank¹³;

Amdt. 7.
June, 1962

(mm) In the case of a non-commissioned officer, severe reprimand or reprimand;¹⁴"

Proviso (2.), line 3. *For* "good or faithful" substitute "good and faithful".

Proviso (3), line 3. *For* "reprimand or severe reprimand" substitute "be severely reprimanded or reprimanded".

Note 7, line 7. *For* "reprimand or severe reprimand" substitute "be severely reprimanded or reprimanded".

Note 9.

Line 5. *For* "reprimanded or severely reprimanded" substitute "severely reprimanded or reprimanded".

Delete from "To be reduced" in line 11 to "ranks" in line 15, and substitute—

"If he was originally enlisted as a soldier but not otherwise, to be reduced to the ranks; or, in any case
To be reduced to a lower grade; or
To be reduced to an inferior class of warrant officer (if any); or
To be reduced to the bottom or any other place in the list of the rank which he holds."

Amdt. 7.
June, 1962

Note 14, line 1. *For* "Reprimand or severe reprimand" substitute "Severe reprimand or reprimand".

Line 4. *For* "reprimanded or severely reprimanded" substitute "severely reprimanded or reprimanded".

25. Section 46.

Subsection (9), line 3. After "Regulations" insert "for the Army".

For Note 16 substitute—

"16. A C.O. must never omit to ask the question prescribed by this subsection, otherwise he acts without jurisdiction and any award of punishment would be invalid."

Amdt. 7.
June, 1962

Note 17, line 1. Delete "the fact" and insert—

"he may, if his C.O. thinks the circumstances of the case warrant it, be at once released from arrest pending trial: K.R. 563 (a). He is to be given on the following day an opportunity of reconsidering his decision to be tried by court-martial: K.R. 563 (b). The fact that he so elects"

Amdt. 7.
June, 1962

110
General
4673

110
General
4673

110
General
4673

110
General
4673

26. Section 48.

Paragraph (8), line 1. *For "prisoner" substitute "person"*.

27. Section 49.

Subsection (2), line 3. *For "prisoner" substitute "person"*.

Note 3. *Delete "(a)"*.

28. Section 52.

Note 8, line 1. *After "any" insert "Dominion,"*

29. Section 54.

Subsection (1), paragraph (d), line 12. *Delete "or until"*.

Subsection (3), last line. *For "discharged" substitute "released"*.

Note 6. *For "(28)" substitute "(23A)"*.

30. Section 56.

Subsection (1), line 3. *Delete "money or"*.

Subsection (2), line 3. *Delete "money or"*.

Subsection (6), line 3. *After "court" insert "in England for such an offence committed in England"*.

31. Section 57.

Subsection (2), paragraph (b), lines 3-5. *For "the Commander-in-Chief of the forces in India, with the approval of the Governor-General of India in Council," substitute "he, with the approval of the Governor-General,"*

Note 9. *For "(23)" substitute "(23A)"*.

32. Section 57A.

Subsection (4), line 4. *For "discharged" substitute "released"*.

33. Section 59.

Note 2, line 1. *For "(23)" substitute "(23A)"*.

34. Section 60. Subsection (1).

Paragraph (a), line 1. *After "United Kingdom" insert—*

"or a Dominion, the law of which does not provide for the civil custody of military convicts,"

*Amdt. 7.
June, 1933.*

Paragraph (b), line 1. *After "India" insert—*

"or a Dominion, the law of which provides for the civil custody of military convicts,"

*Amdt. 7.
June, 1933.*

Note 2, line 2. *After "India" insert "Dominion"*.
For "and (23)" substitute "(23) and (23A)".

35. Section 64.

After subsection (3) insert—

"(3A) A military prisoner or soldier under sentence of detention who was sentenced in a Dominion shall undergo his sentence either in that Dominion, or in the United Kingdom, or in such other place as may be prescribed."

*Amdt. 7.
June, 1933.*

110
General
4672

110
General
4672

110
General
4672

Note 1, line 1. For "(23)" substitute "(23A)".

Note 7, line 1. After "India" insert ", Dominion".
For "and (23)" substitute "(23) and (23A)".

36. Section 68.

Subsection (2), line 3. After "requires" insert "and subject to the provisions of the next succeeding section".

Paragraph (h), sub-paragraph (ii). After "India" insert ", a Dominion".

37. After Section 68 and Note thereto, insert new Heading, Section and Note—

"Application of certain Provisions of Act in a Dominion."

Application
tion of
certain
provisions
of Act in a
Dominion.

68A. The provisions of this Act relating to the execution of sentences shall in relation to a Dominion¹, the law of which provides for the provisional detention by the authorities of the Dominion of military convicts, military prisoners or soldiers sentenced to detention, or for the imprisonment of military prisoners in the prisons of the Dominion, have effect subject to the following modifications:—

*Amdt. 7.
June, 1931*

110
General
4072

(1) the expression "civil custody" shall include custody of the authorities of the Dominion, whether civil or not, and the expression "military custody" shall not include the custody of the military authorities of the Dominion:

(2) the reference in subsection (1) of section sixty-three to a civil prison shall be construed as including a reference to any prison of the Dominion in which a military prisoner under this Act can under the law of the Dominion lawfully be imprisoned:

(3) any provision which expressly or by implication confers a power or imposes a duty on any person to order the committal or transfer to civil custody of a military convict, military prisoner or soldier sentenced to detention, or the release or transfer from civil custody of such a convict, prisoner or soldier, shall be construed as also conferring a power or imposing a duty to take in appropriate cases the proper steps under the law of the Dominion to secure committal or transfer to, or transfer or release from, the custody of the authorities of the Dominion.

NOTE.

1. For definition of *Dominion*, see s. 190 (35).^{1c}

38. Section 73.

Subsection (3): *Delete* from "such officer" in line 4 to the end of the subsection, and *substitute*—

"such officer as he, with the approval of the Governor-General, may appoint, and elsewhere outside the United Kingdom the general or other officer commanding the forces, subject in the case of India, or elsewhere outside the United Kingdom, to any directions given by the Army Council."

Amdt. 7.
June, 1931

Note 5. *Delete* "and colony".

Delete "and (23)".

39. Section 74.

Subsection (1), line 2. *For* "abroad" *substitute* "out of the United Kingdom".

40. Section 83.

Paragraph (5), line 7. *For* "home" *substitute* "to the United Kingdom".

41. Section 84.

Third line from end of subsection (1). *Delete* "of army".

42. Section 89.

Marginal heading. *For* "abroad" *substitute* "out of the United Kingdom".

43. Section 90.

Delete marginal heading and *substitute* "Discharge or transfer to reserve."

44. Section 91 (as amended by Amendment No. 4 notified in Army Order 150 of 1930).

Subsection (1).

Lines 12 and 18. *Delete* "in the case of England or Scotland,"

Delete from "and" in line 16 to "received" in line 18.

Add at end of proviso—

"or, if that area extends into two or more mental hospital districts, to the mental hospital of that one of those districts to which from such available information as aforesaid, the soldier appears to the Army Council, or officer deputed by them, to belong."

Amdt. 7.
June, 1931

Subsection (4) (as amended by Amendment No. 6 notified in Army Order 84 of 1931).

Line 18. *After* "any such person" *insert* "in England or Scotland".

45. Section 94.

Line 16. *After* the words "Governor-General of India; and" *insert* new sub-paragraph—

"In a Dominion", any person duly authorised in that behalf by His Majesty's Government in the Dominion; and"

Amdt. 7.
June, 1931

Lines 19 and 20. For "Beyond the limits of the United Kingdom, India, and a colony," substitute "Out of His Majesty's dominions".

Note 2. After "India" insert ", Dominion".

After "(23)" insert "and (23a)".

46. PART III—Heading. Page 518.

Delete "or the Irish Free State (see note 10 to s. 190)."

47. Section 102.

Line 3. For "this realm" substitute "the United Kingdom".

Delete the marginal heading and substitute "Suspension of enactments as to billeting."

Delete the Note and substitute—

110
General
4672

"The Acts suspended by this section are 2 Chas. 1, c. 1; Amdt. 7, 31 Chas. 2, c. 1; 6 Anne (1), c. 14. See as to billeting generally, June, 1921. Ch. IX, para. 120, et seq."

48. Section 108A.

Subsection (1), lines 2-4. Delete "and also in Ireland the Lord Lieutenant" by a like Order, signified by the Chief Secretary or Under-Secretary."

Subsection (5). For paragraph (c) substitute—

110
General
4673

"(c) In Northern Ireland means a county inspector of the Royal Ulster Constabulary." Amdt. 7, June, 1921

Subsection (6), paragraph (c), line 1. For "Ireland" substitute "Northern Ireland".

Delete Notes 1, 2, and 7.

49. Section 112.

Note 3. For "Ireland" substitute "Northern Ireland".

50. Section 114.

Delete the marginal heading and substitute—

110
General
4673

"Lists of carriages and horses and of persons liable to furnish carriages and animals." Amdt. 7, June, 1921

Re-number subsection (1) as subsection (2), and insert as subsection (1):—

"(1) The provisions of this subsection shall have effect with respect to horses and mechanically propelled carriages and trailers—

110
General
4673

(a) It shall be the duty of the owner of any horse, and the occupier of any premises where horses are kept, to furnish, if so required, to the authority hereinafter mentioned before such date in each year as may be prescribed a return specifying the number of horses belonging to him or kept on his premises, and giving with respect to every horse such details as may be so prescribed; he shall also afford all reasonable facilities for enabling any horse belonging to him or kept on his premises to be inspected and examined as and when required by the said authority; if any person fails to comply with any of the requirements of this paragraph, he

shall be liable on summary conviction for each offence to a fine not exceeding fifty pounds. The Army Council may, for the purposes of this paragraph, make regulations prescribing anything which under this paragraph is to be prescribed, and prescribing the forms to be used, and generally for the purpose of carrying this paragraph into effect, and the regulations so made may provide for excepting from the provisions of this paragraph horses of any class or description specified in the regulations;

(b) The provisions of the foregoing paragraph shall apply in relation to mechanically propelled carriages and trailers as they apply in relation to horses."

Delete subsections (1A) and (1B).

Re-number subsections (2) and (3) as subsections (3) and (4) respectively.

Insert as subsection (5)—

"(5) For the purpose of assisting the authority Amdt. 7.
June, 1952. hereinafter mentioned in the preparation of such list as aforesaid, any proper officer authorised in that behalf by the authority shall be entitled at all reasonable times to enter any premises in which he has reason to believe that any carriages or animals are kept, and to inspect any carriages or animals which may be found therein.

In this provision the expression "proper officer" means any officer or person of such rank, class, or description as may be specified in an order of the Army Council made for the purpose."

Re-number subsections (3A) and (4) as subsections (6) and (7) respectively.

51. Section 115.

Subsection (1), lines 2-4. *Delete* "and also in Ireland the Lord Lieutenant" by a like order, signified by the Chief Secretary or Under Secretary."

Subsection (3A), lines 4 and 5. *For* "a motor car or other locomotive," *substitute* "a mechanically propelled carriage or trailer."

Page 531, line 1. *After* "or" *insert* "any".

Add at end of subsection (7)—

"and as respects any mechanically propelled carriage or trailer so requisitioned for the purpose of being purchased, two hundred and fifty miles from the premises of the owner shall for the purposes of subsection (3A) of this section be the distance within which delivery may be required." Amdt. 7.
June, 1952.

Delete Note 1.

52. Section 122.

Subsection (6), line 6. *Delete* "the Lord Lieutenant of Ireland,"

Delete Note 2.

53. Section 126.

After subsection (3) insert new subsection—

110
General
4872

"(4) If in the case of a court martial held in a Amdt. 7.
June, 1951
Dominion a person not subject to military law is guilty of any such conduct as is mentioned in this section, the steps, if any, to be taken to secure his punishment shall be such steps as may be competent for the purpose under the law of the Dominion."

Add new Note—

"4. For definition of Dominion, see s. 190 (23)."

54. Section 129.

Line 1. Delete from "Whereas" to "respecting" and substitute—

110
General
4872

"The following provisions shall have effect with Amdt. 7.
June, 1951
respect to".

Line 4. Delete "be it therefore enacted as follows".

At the end of the section insert new paragraph (not separately numbered)—

110
General
4872

"If in the case of a court martial held in a Amdt. 7.
June, 1951
Dominion a counsel contravenes any rule made under this Act with respect to the conduct of counsel at courts martial, the steps, if any, to be taken to secure his punishment shall be such steps as may be competent for the purpose under the law of the Dominion."

Add new Note—

"5. For definition of Dominion, see s. 190 (23)."

55. Section 133.

Number existing section as subsection (1), and insert new subsection—

110
General
4872

"(2) The powers conferred by this section shall Amdt. 7.
June, 1951
continue to be exercisable after the cessation of operations so long as the forces in the country in question are on active service."

Delete Note 1.

56. Section 137.

Paragraph (4), line 2. For "public or regimental property" substitute—

110
General
4872

"public, regimental or garrison property", or property belonging to the Navy, Army and Air Force Amdt. 7.
June, 1951
Institutes".

Note 5, line 1. For "or regimental" substitute "regimental or garrison".

57. Section 140.

Subsection (2), line 1. For "And any" substitute "Any".

Marginal heading. After "Supplemental" insert "provisions".

58. Section 143.

Subsection (2).

Line 1. After "any" insert "officers and".

Line 3. For "his soldiers" substitute "his officers and soldiers".

Line 4. After "for" insert "each officer, including".

Note 3. For "(23)" substitute "(23A)".

59. Section 145.

Subsection (2) (as amended by Amendments No. 1 notified in Army Order 76 of 1929).

In the fourth line from the end of the subsection, for "this Act" substitute "any Act".

60. Section 147.

For the marginal heading substitute "Exemption from jury service."

61. Section 154.

Note 4. For "(23)" substitute "(23A)".

62. Section 156.

Delete subsection (3).

Note 2. For "(23)" substitute "(23A)".

Delete Note 4.

63. Section 163.

Subsection (1), paragraph (b).

Line 3. After "forces" insert "(including any Dominion force)".

Lines 4 and 5. For "His Majesty's" substitute "those".

Line 7. Delete "the Commissioners of".

Lines 8 and 9. For "His Majesty's forces" substitute "those forces".

64. Section 166.

Subsection (5), line 1. For "Ireland," substitute "Northern Ireland,"

Subsection (6), line 5. For "Ireland," substitute "Northern Ireland,"

Delete Note 2.

65. Section 167.

Subsection (2). Delete from "and the conviction" in line 4 to the end of the subsection.

Delete Note 1.

66. Section 168.

Note 1. For "(23)" substitute "(23A)".

67. Section 173.

For the marginal heading substitute "Extension of furlough in case of sickness."

68. Section 174.

Delete subsections (1) and (2) and marginal heading, and insert—

"(1) In Northern Ireland when a person holds a canteen under the authority of a Secretary of State or the Admiralty, it shall be lawful for any two justices within their respective jurisdictions to grant

Amdt. 7.
June, 1931

Licences of
canteens in
Northern
Ireland.

any certificate for the time being required to enable such person to obtain the grant, transfer or renewal of and to hold any excise licence for the sale of any intoxicating liquor, without regard to the time of year, and without regard to the requirements as to notices, or otherwise, of any Acts for the time being in force affecting such certificates; and excise licences may upon production of such certificates be granted to such persons accordingly.

[Subsection (2) repealed by A. & A.F. (A) Act, 1932.] "

69. For Section 174A substitute—

Entertain-
ments
under
Service
direction.

110
General
4873

" 174A.—(1) So much of any Act as operates to prohibit as respects particular days, or otherwise to restrict or regulate, the keeping, opening or using of premises for purposes of public entertainment or amusement shall not apply to the use, by authority of a Secretary of State or the Admiralty, of any building at a camp, station, or naval establishment, or of any ship, for entertainments or amusements under the direction and control of an officer or committee having official responsibility for such matters.

Amdt. 7.
June, 1932.

(2) For the purposes of this section, the expression 'public entertainment or amusement' includes public dancing, singing or music, the public performance of stage plays and the giving of cinematograph exhibitions; and in the case of a building or ship which is used for the giving of cinematograph exhibitions, the keeping or storing of films shall be deemed to be part of the use thereof for the giving of the exhibitions."

70. PART V. Introductory Note.

Page 577. Note 2. Add at end of sub-paragraph (c)—

"and
(d) Any officer of a Dominion force who is for the time being subject to military law."

Amdt. 7.
June, 1932.

Page 578. After sub-paragraph (9) insert—

"(10) Members of a Dominion force who, by virtue of any enactment relating to the attachment of such persons, are subject to military law as officers; (s. 176 (13))."

Amdt. 7.
June, 1932.

71. Section 175.

After paragraph (12) insert—

"(13) Any member of a Dominion force who, by virtue of any enactment relating to the attachment of such persons, is subject to military law as an officer, subject, however, to any adaptations and modifications for which provision is made by, or under, that enactment."

Amdt. 7.
June, 1932.

72. Section 176.

After paragraph (11) insert—

"(12) Any member of a Dominion force who, by virtue of any enactment relating to the attachment of such persons, is subject to military law as a

Amdt. 7.
June, 1932.

110
General
4873

110
General
4873

soldier, subject, however, to any adaptations and modifications for which provision is made by, or under, that enactment."

73. Section 177.

Note 1, line 1. *For* "(23)" *substitute* "(23A)".

74. Section 179.

Delete paragraph (20).

75. Section 179A.

Add at end of subsection (2)—

"(A) Nothing in this Act shall affect the application to any such airman of section one hundred and forty-five of the Air Force Act;

(i) Sections one hundred and thirty-six to one hundred and forty-four of this Act shall apply to any such officer or airman as if he were an officer or soldier of the regular forces, and for the purposes of their application to any such airman the references in paragraph (8) of section one hundred and thirty-eight of this Act to the Army Council and to this Act shall be construed as references to the Air Council, and to section one hundred and forty-five of the Air Force Act, and paragraph (d) of this subsection shall not apply in relation to the said sections one hundred and thirty-six to one hundred and forty-four."

Add at end of Note—

"Under sub. (2), para. (i), the power to enforce compulsory stoppages from the pay of an airman attached to the Army towards the maintenance of his wife or child, or of any bastard child, or towards the cost of any relief given by way of loan to his wife or child, remains vested solely in the Air Council. The converse applies in the case of soldiers attached to the Air Force."

76. *After* Section 179A and Note thereto, *insert* new Section and Note—

"179B.—(1) The Army Council may from time to time place any officers or soldiers of the regular forces at the disposal of the military authorities of a Dominion¹ for the purpose of being attached temporarily by those authorities to a Dominion force, and while a person is so attached, he shall, to such extent as the law of the Dominion may provide, be subject to the military law of the Dominion:

Provided that, except while a state of war exists between His Majesty and any foreign power, the Army Council shall not so deal with an officer or soldier without his consent.

(2) While any reserve officer or retired officer, or any warrant officer, non-commissioned officer or man belonging to the army reserve force, is subject to military law, the foregoing provisions of this section shall apply in relation to him as they apply in relation to an officer or soldier of the regular forces.

NOTE.

1. For definition of *Dominion*, see s. 190 (23)."

110
General
467a

Amdt. 7.
June, 1932

110
General
467a

Amdt. 7.
June, 1932

Attaching
of officers
and
soldiers to
Dominion
forces.

110
General
467a

Amdt. 7.
June 1932

13

77. Re-number existing Section 179B as Section 179C.

78. Section 180.

Delete the marginal heading and substitute—

110
General
4673

"Modification of Act with respect to His Majesty's forces when serving in India and His Majesty's Indian forces." Amdt. 7.
June, 1931

79. Section 182.

Paragraph (2), sub-paragraph (a).

Lines 1 and 2. *For* "reprimanded or severely reprimanded" *substitute* "severely reprimanded or reprimanded".

Delete from "or to be reduced" in line 5 to "ranks" in line 10, and *substitute—*

110
General
4673

"or, if he was originally enlisted as a soldier but not otherwise, to be reduced to the ranks, or in any case, to be reduced to a lower grade, or to an inferior class of warrant officer (if any), or to the bottom or any other place in the list of the rank which he holds;" Amdt. 7.
June, 1931

80. Section 183.

Marginal heading. *For* "non-commissioned officer" *substitute* "non-commissioned officers".

For paragraph (2) *substitute—*

110
General
4673

"(2) The Army Council, and

(a) in India the Commander-in-Chief of the forces in India, or such officer as he, with the approval of the Governor-General, may appoint;

(b) elsewhere outside the United Kingdom, the officer commanding the forces, if not below the rank of major-general and if appointed for that purpose by the Army Council;^{2A}; and

(c) on active service the officer commanding-in-chief in the field, and any general officer or brigadier he or the Army Council may appoint, may reduce³ any non-commissioned officer to the ranks or to any lower grade⁴:" Amdt. 7.
June, 1931

Paragraph (3). *Delete* from "to forfeit" in line 2 to "ranks," in line 3, and *substitute—*

110
General
4673

"to be reduced³ to the ranks⁴, or to any lower grade, or to forfeit seniority of rank;" Amdt. 7.
June, 1931

Proviso (b). *Delete* from "such officer" in line 2 to "Council" in line 4, and *substitute—*

110
General
4673

"such officer as he, with the approval of the Governor-General," Amdt. 7.
June, 1931

After Note 2 *insert* new Note—

110
General
4673

"2A. The Army Council have appointed the under-mentioned competent authorities for the purposes of this sub-paragraph:— Amdt. 7.
June, 1931

The Commander-in-Chief, Bermuda;

The General Officer Commanding, the British Troops in China;

The General Officer Commanding, the British Troops in Egypt;

The Commander-in-Chief, Gibraltar;

The Commander-in-Chief, Malta;

The General Officer Commanding, Malaya."

Note 3.

Line 1. *For* "in India or on active service" *substitute* "as provided in para. (2)".

Line 2. *Delete* "by the Army Council or".

81. *Delete* Section 185 and Note thereto, and *insert*—

Special provisions as to prisoners and prisons in Northern Ireland.

"185. The jurisdiction and powers of a Secretary of State under this Act with respect to military convicts or military prisoners, or to prisons other than military prisons, shall in Northern Ireland be exercisable only subject to the approval of the Ministry of Home Affairs for Northern Ireland."

Amdt. 7.
June, 1931.

82. Section 187.

Note 1, line 2. *After* "Man" *insert*—

119
General
4973

" , but for the purposes of this Act and subject to the provisions of this section, they are included in that expression. See s. 190 (29A)."

Amdt. 7.
June, 1931.

83. *For* Section 187A *substitute*—

Application of Act to mandated territories.

"187A. This Act shall apply—

(a) in relation to any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom, in like manner as it applies in relation to a British protectorate:

(b) in relation to any territory in respect of which such a mandate is being exercised by His Majesty's Government in a Dominion, in like manner as it applies in relation to that Dominion."

Amdt. 7.
June, 1931.

84. *After* Section 187B *insert* new Section—

Application of Act to certain Dominions.

"187C.—(1) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

Amdt. 7.
June, 1931.

(2) Until the date on which the Parliament of a Dominion to which this section applies adopts section four of the Statute of Westminster, 1931, and until such later date, if any, as may be fixed by the adopting Act for the adoption to take effect, the provisions of this Act shall apply in relation to, and in relation to forces raised in, that Dominion as they apply in relation to, and in relation to forces raised in, any other part of His Majesty's dominions which is situate outside the United Kingdom and British India and is not a Dominion."

110
General
4973

85. Section 189.

Subsection (2), line 2. *After* "serving" where that word occurs for the second time, *insert* "in a Dominion" or ".

Subsection (6), lines 1 and 2. *For* "out of His Majesty's Dominions" *substitute* "in a Dominion or out of His Majesty's dominions".

For Note 2 substitute—

"2. For definitions of *Dominion* and *colony*, see s. 190 (23) (31A)."

Note 3, line 3. After "when" insert "in a Dominion or".

86. Section 190.

Line 1. After "context" insert "and subject to any express provision to the contrary".

Delete paragraph (2).

Paragraph (4). Delete from "it also includes" in line 3 to "military law" in line 12, and insert—

"and includes also—

(a) a person who, by virtue of his commission, is appointed to any department, or corps of His Majesty's forces, or of any arm, branch, or part thereof;

Amdt. 7.
June, 1961

(b) a person, whether retired or not, who, by virtue of his commission or otherwise, is legally entitled to the style and rank of an officer of His Majesty's said forces, or of any arm, branch, or part thereof;

(c) any officer of His Majesty's naval or air forces who is for the time being subject to military law; and

(d) any officer of a Dominion force who is for the time being subject to military law."

After paragraph (7) insert—

"(7A) The expressions 'the forces' and 'His Majesty's forces' do not include His Majesty's Dominion forces."

Amdt. 7.
June, 1961

Paragraph (8), lines 1 and 2. For the words "The expressions 'regular forces' and 'His Majesty's regular forces' mean", substitute "The expression 'regular forces' means".

After paragraph (20) insert—

"(20A) The expression 'United Kingdom' includes (subject, however, to the provisions of section one hundred and eighty-seven of this Act) the Channel Islands and the Isle of Man: "

Amdt. 7.
June, 1961

Delete paragraph (23) and insert—

"(23) The expression 'Dominion' means any of the following Dominions, that is to say,—the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland:

Amdt. 7.
June, 1961

(23A) The expression 'colony' means any part of His Majesty's dominions exclusive of the United Kingdom, of British India and of any Dominion, and includes any British protectorate: "

110
General
4873

110
General
4873

110
General
4873

110
General
4873

Paragraph (24).

Line 2. *After* "United Kingdom," insert "a Dominion,"

Line 3. *Delete* "as above defined,"

Delete paragraph (25).

Paragraph (29), line 4. *For* "at Dublin" substitute "in Northern Ireland".

After paragraph (33) insert—

"(33A) The expression 'steals' has the same meaning as it has for the purposes of the Larceny Act, 1916";

For paragraph (34) substitute—

"(34) The expression 'Summary Jurisdiction Acts':—

(a) as regards England and Northern Ireland, has the meaning assigned to it by the Interpretation Act, 1889; and

(b) as regards Scotland, means the Summary Jurisdiction (Scotland) Act, 1908, and any enactment amending that Act: "

Paragraph (35). *Delete* sub-paragraphs (a) to (c) and substitute—

"(a) as regards England and Northern Ireland, has the meaning assigned to it by the Interpretation Act, 1889;

(b) as regards Scotland, means a court within the meaning of the Summary Jurisdiction (Scotland) Act, 1908; and "

Paragraph (37), line 4. *For* "Ireland" substitute "Northern Ireland".

Paragraph (40A). *Add* at end—

"and the expression 'trailer' means a carriage constructed or adapted for being drawn by a mechanically propelled carriage: "

Delete Note 9, and insert—

"2. See, however, s. 187C, as to application of the Act to certain Dominions."

Delete Note 10, including the portion headed "Irish Free State".

Note 11, line 2. *After* "India," insert "the Dominions". *Delete* "as defined in s.190 (23)".

Delete Note 12, and insert—

"12. See Chap. VII, para. 50, *et seq.*"

Delete Note 13.

RULES OF PROCEDURE.

S.R.O. 453
1953

87. Page 614. Rule 130. *For* "abroad" in the text and in the italicized heading, substitute "out of the United Kingdom".

88. Rule 4. *Add* at end of Note 3—

"Except in the circumstances mentioned in A.A. 46 (8), and as respects a warrant officer in A.A. 47 (3), a soldier has no right to claim a trial by court-martial."

110
General
4673

Amdt. 7.
June, 1952.

Amdt. 7.
June, 1952.

Amdt. 7.
June, 1952.

Amdt. 7.
June, 1952.

Amdt. 7.
June, 1952.

Amdt. 7.
June, 1952.

89. Delete Rule 7 and the Notes thereto.

90. Rule 17, paragraph (C).

Line 10. For "colony" substitute "Dominion or a colony".

Line 11. For "colony" substitute "forces in that Dominion or colony".

Line 16. For "colony or force" substitute "forces".

91. Rule 20. For paragraph (A) substitute—

110
General
4672

"(A) A general or district court-martial shall, as far as seems to the convening officer practicable, be composed of officers of different corps; in no case shall it be composed exclusively of officers of the same regiment of cavalry, or the same brigade of artillery, or the same battalion of infantry, unless the convening officer states in the order convening the court that in his opinion other officers are not (having due regard to the public service) available".

Amdt. 7.
June, 1931

92. Rule 51, paragraph (A), last line. For "His Majesty's Regulations" substitute "the King's Regulations for the Army".

93. Rule 62. Note 1, paragraph (d), line 11. For "money" substitute "property".

94. Rule 89.

At end of paragraph (B) insert a notation figure "2".

Insert new Note—

110
General
4673

"2. When the convening officer intends to appoint or apply for the services of an officer holding legal qualifications to act as prosecutor, similar notice should be given to the accused to enable him, if he so desires, to obtain counsel to represent him at the trial."

Amdt. 7.
June, 1931

95. Rule 122, paragraph (B), line 3. For "His Majesty's Regulations" substitute "the King's Regulations for the Army".

96. Rule 125A (as promulgated by Amendments No. 5 notified in Army Order 5 of 1931), paragraph (E), lines 9 and 10. For "His Majesty's Orders and Regulations" substitute "the King's Regulations for the Army".

97. Rule 126. For "colony" where that word occurs in the following paragraphs, substitute "Dominion or colony":—

Paragraph (D), sub-paragraph (ii), lines 1 and 3.

Paragraph (F), sub-paragraph (iii), lines 1 and 3.

Paragraph (H), sub-paragraph (iii), lines 1 and 3.

Paragraph (I), line 11.

Paragraph (J), lines 3 and 4. Delete "or in a colony".

98. Rule 123, paragraph (vi), lines 1 and 2. For "His Majesty's Regulations" substitute "the King's Regulations for the Army".

99. Rule 129, lines 5 and 6, and line 12. *For* "His Majesty's Regulations" *substitute* "the King's Regulations for the Army".

100. Rule 130.

For "abroad" in the italicised heading and in the marginal heading, *substitute* "out of the United Kingdom".

Line 9. *After* "table" *delete* and *insert*—

" ; but this rule shall not authorise the commitment or removal of a military prisoner to any prison of a Dominion except in so far as the law of the Dominion makes provision for such commitment or removal."

Amdt. 7.
June, 1962.

Note 1. *After* "(3)," *insert* "(3A),"

Note 2, line 3. *After* "(3)," *insert* "(3A),"

Page 696. Lines 8 and 9 from top of page. *For* "Channel Islands, and Cyprus" *substitute* "and Channel Islands".

Delete "190(23)".

101. Rule 184, paragraph (A), line 3. *For* "His Majesty's Regulations" *substitute* "the King's Regulations for the Army".

102. FIRST APPENDIX—FORMS OF CHARGES.

Page 703. Line 9 from top of page. *After* "or," *insert*—

"The accused [rank, name, corps] a member of a Dominion force who by virtue of [state enactment] relating to the attachment of such persons, is subject to military law as an officer [a soldier],

Amdt. 7.
June, 1962.

or,"

After "or," in the penultimate line, *insert*—

"Where a person undergoing a sentence of penal servitude, imprisonment or detention commits an offence after his discharge or dismissal from the service has been carried out, the commencement of the charge will run as follows:—

Amdt. 7.
June, 1962.

The accused [name, late number, rank, regiment] being a person subject to military law under the provisions of Section 158 (2) of the Army Act, is charged with—

or,"

Page 704. Section 4. *For* paragraph (6) *substitute*—

"(6.) Knowingly doing, when on active service, an act calculated to imperil the success of

	(His Majesty's forces.
	forces co-operating with His Majesty's
	forces.
	part of His Majesty's forces.
	part of forces co-operating with His
	Majesty's forces."

Amdt. 7.
June, 1962.

Page 706. Section 7, paragraphs (3) and (4). *Deletes* "forces belonging to" where those words thrice occur.

Page 707. Section 17.

Delete the following particulars where they twice occur—

"of public
of regimental {money
goods"

and substitute

110
General
4872

"of public property
of regimental property
of garrison property".

Amdt. 7.
June, 1862.

For "goods" in the penultimate line of the section, substitute "property".

Below "of regimental" in last line, insert "of garrison".

Pages 707-8. Section 18.

Delete all detail under paragraph (4) and substitute—

<p>"(4.) { Stealing Embezzling Fraudulently misapplying</p>	<p>{ property belong- ing to public property.</p>	<p>{ a person subject to military law. a regimental band. a regimental mess. a garrison mess. a regimental institution. a garrison institution. the Navy, Army and Air Force Institutes.</p>	<p><u>Amdt. 7.</u> <u>June, 1862.</u></p>
<p>Receiving, knowing it } stolen, to have } embezzled, been }</p>	<p>{ property belong- ing to public property."</p>	<p>{ a person subject to military law. a regimental band. a regimental mess. a garrison mess. a regimental institution. a garrison institution. the Navy, Army and Air Force Institutes.</p>	<p><u>110</u> <u>General</u> <u>4872</u></p>

Page 709. Section 24.

Paragraph (4). Delete the detail following "property belonging to" and substitute—

110
General
4872

" a comrade.
an officer.
a regimental band.
a regimental mess.
a garrison mess.
a regimental institution.
a garrison institution.
the Navy, Army and Air Force Institutes."

Amdt. 7.
June, 1862.

103. SPECIMEN CHARGES.

Page 718. Specimen Charges Nos. 17 and 18. Delete "forces belonging to" in the statement of offence in each case.

Page 722. Specimen Charge No. 43. For "money" in the statement of offence, substitute "property".

Page 722, last line. For "money" substitute "property".

Page 723. Specimen Charge No. 44. For "money" in the statement of offence and in the particulars of the charge, substitute "property".

Specimen Charges No. 45 and 46. For "goods" in the statement of offence, substitute in each case "property".

Specimen Charge No. 47. For "goods" in the statement of offence and in the particulars of the charge, substitute "property".

Page 724. Specimen Charges Nos. 53 and 54. For "money" in the statement of offence and in the particulars of the charges, substitute in each case "property".

Pages 724-5. Specimen Charge No. 55.

For the statement of offence in the First Charge substitute "Stealing property belonging to a person subject to military law."

For the statement of offence in the Second Charge substitute "Receiving, knowing it to have been stolen, property belonging to a person subject to military law,"

Amdt. 7.
June, 1932.

Specimen Charge No. 56. For "money" in the statement of offence, substitute "property".

Page 734. Specimen Charge No. 106. For "money" in the statement of offence and in the particulars of the charge, substitute "property".

104. SECOND APPENDIX—FORMS AS TO COURTS-MARTIAL.

Page 736. Delete the asterisk footnote, and substitute—

" * Any opinion of the convening officer with respect to the composition of the Court (see Army Act, s. 48 (10) and Rules of Procedure 20 and 21) should be added here; thus, where a Court-Martial is ordered to assemble, composed exclusively of officers of the same regiment of cavalry, or the same brigade of artillery, or the same battalion of infantry, the following should be added:—

Amdt. 7.
June, 1932.

'In the opinion of the convening officer, other officers are not, having due regard to the public service, available' (or as the case may be)."

Page 757. Delete paragraph (h) and marginal heading and substitute—

" (h) to be severely reprimanded [or reprimanded]."

Page 758. Delete paragraph (r) and marginal heading and substitute—

" (r) [if a non-commissioned officer].

(1) to be reduced to the ranks; or

(2) to be reduced to [a lower grade, i.e., to the rank of corporal, bombardier, or serjeant, as the case may be]; or

Amdt. 7.
June, 1932.
110
General
4672

110.
General
4672

110
General
4672

Severe
reprimand
or
reprimand.

Reduction
to

*For future
of
seniority.*

(3) to take rank and precedence as if his appointment to the rank of _____ bore date _____ ; or

*Severely
reprimand
or
reprimand.*

(4) to be severely reprimanded [or reprimanded]."

Page 759. Delete paragraphs (y) to (sss) and detail, and substitute—

"(y) [If he was originally enlisted as a soldier but not otherwise]

to be reduced to the ranks;

Amdt. 7.
June, 1901

or,

(z) to be reduced to [a lower grade];

or,

to be reduced to an inferior class of warrant officer, that is to say, to

or,

(ss) to be reduced in the list of his rank as if his appointment thereto bore date the day of

or,

(sss) to be severely reprimanded [or reprimanded]."

105. MEMORANDA.

Page 767. Paragraph 7. For sub-paragraph (c) substitute:—

110
General
4875

"(c) Where the court is composed exclusively of officers of the same regiment of cavalry, or the same brigade of artillery, or the same battalion of infantry (see R.P.20 (A)); or "

Amdt. 7.
June, 1901

Page 767. Footnote. For "money" substitute "property".

106. THIRD APPENDIX—FORMS OF COMMITMENT.

Page 772. Form B—Heading. For "in India or a Colony, or a Foreign Country," substitute "out of the United Kingdom".

GENERAL.

107. For "His Majesty's regular forces" where those words occur in the following places, substitute in each instance "the regular forces":—

CHAPTER XI.

Paragraph 83 (page 240), line 9.

ARMY ACT.

Section 13 (page 439). Subsection (1), paragraph (a).

Section 80 (page 504). Subsection (4), paragraph (b).

Section 93 (page 514).

Section 95 (pages 514-5). Subsections (1) and (2).

Section 98 (page 516). Paragraph (1).

Section 108 (page 518). Subsection (1).

Section 105 (page 520). Paragraphs (1) and (2).

Section 112 (page 526). Subsection (1).

Section 115 (page 530). Subsection (1).

Section 136 (page 545).

Section 143 (page 553). Subsection (1).

Section 144 (page 554). Subsection (1).

Section 147 (page 558).

Section 152 (page 558), and Note 1 thereto.

Section 155 (page 561). Paragraph (1).

Section 163 (page 568). Subsection (1), paragraph (a).

Section 177 (page 583), line 12.

Section 179 (page 586). Paragraph (12).

RULES OF PROCEDURE.

Page 713. Section 155 (twice mentioned).

SPECIMEN CHARGES.

Page 721. Specimen Charges Nos. 34 and 35.

Page 729. Specimen Charge No. 79.

108. For "beyond the seas" where those words occur in the following places, substitute in each instance "out of the United Kingdom":—

CHAPTER V.

Paragraph 9 (page 44), line 4.

CHAPTER X.

Paragraph 8 (page 212), lines 3 and 4.

Paragraph 18 (page 214), lines 4 and 5.

CHAPTER XI.

Paragraph 30 (page 227), line 5.

ARMY ACT.

Section 47 (page 472). Subsection (1), line 8.

Section 48 (page 474). Preliminary Note, line 8.

Section 49 (page 476). Subsection (1), lines 2 and 3.

Section 57A (page 488). Subsection (9), line 6.

Section 64 (page 491). Subsection (2), lines 4 and 5.

Section 83 (page 506). Paragraph (4), lines 5 and 6, and lines 8 and 9.

Section 83 (page 506). Paragraph (5), lines 5 and 11.

Section 83 (page 506). Paragraph (6), line 9.

Section 87 (page 509). Subsection (1), line 4.

Subsection (2), line 4.

Section 89 (page 511). Paragraph (1), line 2.

Paragraph (2), line 3.

Section 90 (page 511). Subsection (2), lines 2 and 3.

Section 90 (page 511). Subsection (4), line 2.

Section 122. Line 2 from top of page 537.

Section 145 (page 556). Subsection (3)—Proviso, lines 3 and 4.

Section 145 (page 557). Note 6, line 1.

Section 179 (page 584). Paragraph (1), line 12.

Section 179A (page 588). Subsection (2), paragraph (c), line 7.

RULES OF PROCEDURE.

Rule 105 (page 680). Paragraph (A), subparagraph (i), line 2.

By Command of the Army Council,



THE WAR OFFICE,

30th June, 1932.

LONDON

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 8

PART I.

Chapter III. Paragraph 59. *After "or" in line 2* 110
General
4793
insert "warrant officer or"

Chapter XIII.

Paragraph 3.

Line 18. *For "officers" substitute "commanders".*

Line 21. *For "officer commanding" substitute "commander of the".*

Paragraph 4.

Line 10. *For "An officer" substitute "A military commander".*

Line 13. *For "officer" substitute "commander".*

Line 14. *For "an officer" substitute "a commander".*

Line 16 and 17. *For "An officer" substitute "A commander".*

Paragraph 5.

Line 5. *For "An officer" substitute "A commander".*

Line 14. *For "officer" substitute "commander".*

Line 17. *For "officer" substitute "commander".*

Line 20. *For "an officer" substitute "a commander".*

Line 24. *For "officer" substitute "commander".*

Line 25. *For "officer" substitute "commander".*

Line 27. *For "officer" substitute "commander".*

Line 31. *For "an officer" substitute "a commander".*

Line 33. *For "officer" substitute "commander".*

Paragraph 6, line 5. *For "officers" substitute "military commanders".*

Paragraph 27, line 3. *For "officers" substitute "military commanders".*

Paragraph 34, line 32. *For "an officer" substitute "a military commander".*

PART II.

Section 7 (page 432). Note 2, line 2. *For "or land" substitute ", land or air".*

Section 37 (page 457).

After "non-commissioned officer" in line 1 *insert* a notation figure "1".

Insert new note—

Amdt. 8
Oct., 1933

1. This section applies to a warrant officer as if he were a N.C.O.
See s. 182.

110
General
4793

Re-number existing note 1 (and the corresponding notation figure in the text) as "1A".

Section 57A (page 488). Note 7 (as amended by Amendments No. 4 notified in Army Order 150 of 1930).
After "1929" in line 3 *insert* ", 179 of 1932."

Section 145 (page 557). Note 4 (as amended by Amendments No. 4 notified in Army Order 150 of 1930).
After "1930" *insert* ", 178 of 1932."

Section 190.

Paragraph (5) (page 601). *After* "warrant officer" in line 3 *insert* a notation figure "2A".

Insert new note (page 605)—

Amdt. 8
Oct., 1933

2A. The provisions of the Act, however, are (with certain modifications) applied to a warrant officer as if he were a non-commissioned officer. (s. 182.)

110
General
4798

Add at end of note 3—

"*See*, however, note 2A above."

By Command of the Army Council,



THE WAR OFFICE,
31st October, 1933

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 9.

PART I.

1. CHAPTER IV.

Paragraph 29. Last sub-paragraph. Line 1. *For* "fraud and indecency," *substitute* "indecency, fraud and theft,".

2. CHAPTER V.

Paragraph 20. Last sub-paragraph. Line 1. *For* "fraud and indecency" *substitute* "indecency, fraud and theft,".

Page 66. Footnote 5. *For* "715" *substitute* "680".

PART II.

THE ARMY ACT.—ARRANGEMENT OF SECTIONS.

3. Insert at foot of page 424—

Relations between military forces and Indian

Air Force 184B

110
General
462

THE ARMY ACT.

4. Section 17. Note. Line 1. *Delete* "—but not of simple theft—" and *substitute* "and theft,".

5. Section 41. Note 3. Line 2. *After* "fraud" *insert* ", theft".

6. Section 46. Note 5. Line 6. *Delete* "except in cases of absence without leave," and *substitute* "with certain exceptions,"

7. Section 56. Subsection (5). Line 1. *Delete* "other".

Amdt. 9
June, 1934

8. For Section 91 substitute—

Amdt 6
June, 1934

91.—(1) The Army Council or any officer deputed by them for the purpose may, if they or he think proper, on account of a soldier's unsoundness of mind¹ cause any soldier of the regular forces on his discharge, and his wife and child, or any of them (being in such a state of health as not to be liable to suffer bodily or mental injury by removal) to be sent to the poor law area in England, Scotland or Northern Ireland to which, under the statutes for the time being in force, he appears from the statements made in his attestation paper and other available information to be chargeable; and such soldier, wife, or child, if delivered after reasonable notice at any institution of the poor law authority of the said area, or, if a particular institution has been designated for the purpose by the clerk to that authority, at that institution, shall be received by the master or other proper officer of the institution :

Provided that the Army Council, or officer deputed by them for the purpose, if satisfied that the soldier is a dangerous person of unsound mind, may by order in writing cause him to be sent direct, in the case of England or Scotland, to any mental hospital in which persons of unsound mind who are in an institution of, or are chargeable to, the said poor law area may lawfully be received, or, if a particular mental hospital has been designated for the purpose by the clerk to the poor law authority of the area, to that mental hospital, and, in the case of Northern Ireland, to the public mental hospital for the district in which the said poor law area is situate, or if that area extends into two or more public mental hospital districts, to the public mental hospital for that one of those districts to which, from such available information as aforesaid, the soldier appears to the Army Council, or officer deputed by them, to belong.

(2) The clerk to any poor law authority in England or Scotland shall, on receiving a request from the Army Council or officer deputed by them for the purpose, forthwith designate to them or him an institution of the authority, or, as the case may be, a mental hospital in which persons of unsound mind who are in an institution of, or are chargeable to, the area of the authority may lawfully be received, as being a convenient institution or mental hospital for the reception of any person mentioned in the request.

(3) In this section the expression "poor law area" means, in the case of England, a county or a county borough, in the case of Scotland, a county or a large burgh, within the meaning of the Local Government (Scotland) Act, 1929, and, in the case of Northern Ireland, a poor law union; the expression "poor law authority" means, in relation to a county, county borough or large burgh, the council thereof and in relation to a poor law union, the board of guardians thereof; the expression "institution" means, in the case of England or Northern Ireland, a workhouse, and,

Delivery of
soldier of
unsound
mind on
discharge
with his
wife or
child at
poor law
institution,
or of
dangerous
person of
unsound
mind at
mental
hospital.

110
General
484

in the case of Scotland, a poorhouse; and the expressions "person of unsound mind" and "mental hospital" mean in the case of Scotland "a lunatic" and "an asylum" respectively.

(4) An order made under the proviso to subsection (1) of this section shall be of the like effect, and the like proceedings shall be taken thereon, as if it were, in the case of a person of unsound mind sent to a mental hospital in England, a summary reception order made under the Lunacy Act, 1890, in the case of such a person sent to a mental hospital in Scotland, an order of the sheriff made under section fifteen of the Lunacy (Scotland) Act, 1862, and in the case of such a person sent to a mental hospital in Northern Ireland, an urgency order made under section twenty of the Mental Treatment Act (Northern Ireland), 1932; and for the purposes of any enactment relating to the cost of the maintenance of any such person in England or Scotland, the poor law area to which in the opinion of the Army Council, or officer deputed by them, the person is chargeable shall be deemed to be the place from which he was sent to the mental hospital.

Note

1. See further as to soldiers of unsound mind, K.R. 386-391.

9. Section 163. Subsection (1), paragraph (b).—

Lines 6 and 7. *Delete* "or the Army Council, or of the Admiralty, or of the Air Council," and *substitute*—
or on behalf of the Army Council, the Admiralty, or the Air Council,

Line 8 *After* "commanding officer" *insert*—
or the officer having the custody of the records

10. *After* Section 184A and Note thereto *insert* new section—

Amdt 9
June, 1934

184B. When a body of the regular, reserve or auxiliary forces and a body of an air force raised in India are serving together under such conditions as may be prescribed by regulations made by the Army Council and the Governor-General of India, then, if it is so provided by the regulations, but subject to any exceptions or limitations specified therein, a member of either body shall, in relation to the other body—

Relations
between
military
forces and
Indian Air
Force.

110
General
4942

- (a) be treated for the purposes of command and discipline, and for the purposes of the provisions of this Act relating to superior officers; and
- (b) have for those purposes all such powers (other than powers of punishment),

as if he were a member of that other body holding relative rank.

For the purposes of this section, the relative rank of members of different forces shall be such as may be provided by regulations made as aforesaid.

11. Section 188.

Number existing section as subsection (1), and insert new subsection—

Amdt. 9
June, 1904

(2) Where the officer commanding the troops on board a ship holds a authority empowering him during the voyage to convene a court-martial for the trial of any person under his command who is subject to military law and to confirm the finding and sentence of a court-martial convened for the trial of any such person as aforesaid, or conferring on him either of those powers, that authority shall, in relation to any such person as aforesaid, have effect as if it had been issued at the place where that person embarked on board the said ship by an officer or person qualified under this Act to issue such an authority at that place.

110
General
4843

In line 6 of the Note. after "(K.R. 1091)." insert—

Amdt. 9
June, 1904

Subs. (3) enables a warrant issued at the commencement of a voyage to cover all troops who may come under the command of the O.O. troops during the voyage.

110
General
4843

12. Section 190—

Paragraph (4). Last two lines. *Delete* "subject to the exceptions in this Act mentioned".

For paragraph (27) substitute—

Amdt. 9
June, 1904

(27) The expression "governor" in its application to a colony means the officer, however styled, who is for the time being administering the government of the colony:

110
General
4843

RULES OF PROCEDURE

S.R.O. 683
1904

13. Rule 10. Fourth paragraph. Lines 2-4. *Delete* "an officer not below the rank of brigadier who is also of superior rank" and *substitute* "any officer superior in command".

14. Rule 17. Note 2—

Line 2. *For* "fraud and indecency," *substitute* "indecency, fraud and theft".

Lines 4 and 5. *Delete* "This does not apply to simple cases of theft."

15. Rule 39. Note 5. Line 11. *Delete* "In many cases" and *substitute*—

Amdt. 9
June, 1904

As a rule, original documents will be annexed to the proceedings, but, if they are urgently required for other purposes,

110
General
4843

16. Rule 46. *Add* at end of paragraph (D) "and in mitigation of punishment."

17. Rule 50. Note 2. *Delete* from "As a rule" in line 1 to "proceedings." in line 3, and *substitute*—

Amdt. 9
June, 1934

As a rule, an original document will be annexed to the proceedings unless it is urgently required for other purposes, in which case it will be sufficient to attach a certified true copy.

110
General
4842

18. SECOND APPENDIX — FORMS AS TO COURTS-MARTIAL—

Page 756. Instructions. Paragraph (3). Line 8. *After* "thereon" *insert* "and in mitigation of punishment."

19. MEMORANDA—

Page 764. Paragraph 2, sub-paragraph (g). Line 3. *After* "gravity" *insert*—

Amdt. 9
June, 1934

, unless facts subsequently appear which disclose a more grave offence or offences

110
General
4842

Page 766. Paragraph 6, sub-paragraph (a). Lines 2 and 3. *Delete* "fraud (except simple theft) and indecency" and *substitute* "indecentcy, fraud and theft".

Page 769. Paragraph 17. *Delete* from "As a rule" in line 4 to "proceedings." in line 5, and *substitute*—

Amdt. 9
June, 1934

As a rule, however, original documents will be annexed to the proceedings unless they are urgently required for other purposes.

110
General
4842

20. THIRD APPENDIX—FORMS OF COMMITMENT.

Page 785. Form R. *Delete* the last sentence "He should not be obliged . . . confinement." and *substitute*—

Amdt. 9
June, 1934

He will not be required to perform any duty otherwise than as provided in the aforesaid Regulations for soldiers who are under close arrest.

110
General
4842

DISCIPLINARY REGULATIONS AND ORDERS

21. Page 817. *Add* at end—

Amdt. 9
June, 1934

Order made on the 25th April, 1927, by the Army Council and Air Council under Clause 1 of the Conditions set out above

110
General
4842

Whenever any body of His Majesty's Military Forces and any body of His Majesty's Air Force are acting together within the area of China or Hong Kong, Section 184A, Army Act, except the proviso to Subsection (1A) of that Section, and Section 184A, Air Force Act, except the proviso to Subsection (1A) of that Section, shall apply to and in relation to such bodies and the officers, warrant officers, non-commissioned officers and men who are members thereof.

*Order made on the 22nd November, 1933, by the
Army Council and Air Council under Clause 1
of the Conditions set out above*

Whenever any body of His Majesty's Military Forces and any body of His Majesty's Air Force are acting together within the area of Singapore, Section 184A of the Army Act, except the proviso to Subsection (1A) of that Section, and Section 184A of the Air Force Act, except the proviso to Subsection (1A) of that Section, shall apply to and in relation to such bodies and the officers, warrant officers, non-commissioned officers and men who are members thereof.

By Command of the Army Council,

H. J. Creed

THE WAR OFFICE,

30th June, 1934

LONDON

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 10.

PART I

1. CHAPTER XI.

Paragraph 83. Lines 19 and 26. *Delete "Brigade,"*

110
General
4890

PART II

THE ARMY ACT

2. Section 7. *Add at end of Note 2 (page 482)—*

Amdt. 10
June, 1935

The Incitement to Disaffection Act, 1984 (24 and 25 Geo. 5, c. 86), makes further provision for the prevention, detection and punishment of endeavours to seduce members of His Majesty's forces from their duty or allegiance.

110
General
4890

3. Section 64.

Delete sub-sections (3) and (3A) (as promulgated by Amendments No. 7 notified in Army Order 96 of 1932) and insert—

Amdt. 10
June, 1935

[Subsections (3) and (3A), repealed by A. and A.F. (A.) Act, 1935.]

110
General
4890

Subsection (4). Delete the first five lines and substitute—

(4) A military prisoner or soldier under sentence of detention shall—

110
General
4890

(i) if he was sentenced in a Dominion, India or a colony^a, undergo his sentence either in that Dominion, India or that colony (as the case may be), or in the United Kingdom, or in such other place as may be prescribed^a;

(ii) if he was sentenced in a foreign country^a, undergo his sentence either in that country, or in any other foreign country in which the force with which he is serving may be, or in the United Kingdom, or in such other place as may be prescribed^a;

Delete Note 6.

Delete Note 8 and substitute—

Amdt. 10
June, 1935

8. Or in such other place as may be prescribed. See R.P. 130.

110
General
4890

A soldier sentenced to imprisonment outside the United Kingdom may be removed to a prison in the United Kingdom, or as prescribed in R.P. 130 (A). A soldier

7. Section 175. *After* paragraph (10) insert new paragraph—

Amdt. 10
June, 1935

(10A) Any officer not otherwise subject to military law who under the authority, or with the approval, of the Army Council is employed with his consent outside the United Kingdom either on military service with an armed force or in any other military capacity :

110
General
1890

RULES OF PROCEDURE

8. RULE 130.

Note 1. *Delete* "(3), (3A),".

Note 2. Line 3. *Delete* "(3), (3A),".

9. SUSPENSION AND REVIEW OF SENTENCES

Page 802. *Delete* sub-paragraph (f).

By Command of the Army Council,



THE WAR OFFICE,

30th June, 1935

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sentenced to detention may be removed from any detention barrack to any other wherever situate, except that he cannot be removed from a detention barrack in the United Kingdom to a detention barrack elsewhere save as provided in sube (1).

4. Section 90. Note 1. *Delete* from “, and” in line 2
so “reserve” in line 4.

5. Section 163.

Subsection (1). *Delete* paragraph (b) and substitute—

Amdt. 10
June, 1935

(b) A letter, return, or other document with respect to a person—

110
General
4899

- (i) having, or not having, at any time or times served in, or been discharged from, any part of His Majesty's forces (including any Dominion force); or
- (ii) having, or not having, held any rank or appointment in, or been posted or transferred to, any part of such forces, or having, or not having, served in any particular country or place; or
- (iii) being, or not being, authorised to use or wear any military decoration, medal, medal ribbon, badge, wound stripe or emblem, the use or wearing of which by an unauthorised person is under this Act an offence,

if purporting^a to be signed by or on behalf of a Secretary of State or on behalf of the Army Council, the Admiralty, or the Air Council, or by the commanding officer or the officer having the custody of the records of any portion of those forces, or of any of His Majesty's ships, to which such person appears to have belonged, or alleges that he belongs or had belonged, shall be evidence of the facts stated in such letter, return, or other document^a:

For Note 4 (page 570) *substitute*—

Amdt. 10
June, 1935

4. Para. (b) was amended by the A. and A.F. (A) Act, 1935, to enable documentary evidence to be given with respect not only to the fact or length of service but also in relation to certain specified incidents in a person's service, as well as to his right or otherwise to wear medals, medal ribbons, etc.

110
General
4899

6. Part V. Introductory Note. Page 578. Para. 2.
After sub-para. (7) *insert*—

Amdt. 10
June, 1935

(7A) Officers not otherwise subject to military law who are employed on military service or in a military capacity in the circumstances mentioned in s. 175 (10A);

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General
4899

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 11

PART I.

1. CHAPTER V.

Paragraph 111. Line 6. *For "abroad" substitute "out of the United Kingdom".*

Page 68.

Line 2 from top of page. *After "committed" insert "out of the United Kingdom".*

Add at end of footnote 1—

Amdt. 11
Aug., 1935

A field general court-martial cannot be convened to try the offences of treason, murder, manslaughter, treason-felony or rape committed in the United Kingdom even when troops are on active service (A.A. 41 proviso, and see note 1 to A.A. 49).

110
General
4914

PART II.

THE ARMY ACT.

2. SECTION 49. Note 1.

Line 5. *After "service," insert—*

Amdt. 11
Aug., 1935

except: the civil offences of treason, murder, manslaughter, treason-felony or rape committed in the United Kingdom;

110
General
4914

Line 6. *After "convened" insert "out of the United Kingdom".*

Add at end of Note 3—

It has been held that the opening words of the proviso to A. 41 amount to a prohibition against the trial by any court-martial of the civil offences of treason, murder, manslaughter, treason-felony or rape if committed in the United Kingdom.

RULES OF PROCEDURE.

3. RULE 105. Note 2. Line 10. *After "offence" insert—*

Amdt. 11
Aug., 1935

but it cannot try the civil offences of treason, murder, manslaughter, treason-felony or rape if committed in the United Kingdom (see proviso to A.A. 41)

110
General
4914

Delete "(See A.A. 49 (3))."

4. RULE 130 (A). Table (page 695). Group VI. *Delete "Iraq."*

5. Page 713. Section 41. *Delete detail against sub-heading (1-4.) and substitute—*

S.R.O. 885
1885

Amdt. 11
Aug., 1885

(1-4.)

When in Gibraltar (whether on active services or not)
When in a place not within His Majesty's dominions (whether on active services or not)
When in a place within His Majesty's dominions other than the United Kingdom, and more than one hundred miles as measured in a straight line from any city or town in which he can be tried by a competent civil court for the offence (whether on active services or not)
When on active service in a place within His Majesty's dominions other than the United Kingdom,

committing a civil offence, that is to say, (treason, murder, manslaughter, treason-felony, rape.

110
General
4014

SPECIMEN CHARGES.

6. Page 732. *Delete Specimen Charge No. 96 and substitute—*

No. 96.

CHARGE-SHEET.

Amdt. 11
Aug., 1885

The accused, No. , Private (Lance-Corporal) ,
Battalion, Regiment, a soldier of the
Regular Forces, is charged with—

110
General
4014

When in a place not within His Majesty's dominions, Sec. 41, committing a civil offence, that is to say, manslaughter, Army Act.
in that he, at [Alexandria in Egypt], on ,
unlawfully killed No. , Private , Battalion,
Regiment.

PART III.

MISCELLANEOUS ENACTMENTS-AND REGULATIONS.

7. Insert at end (page 907)—

Amdt. II
Aug. 1888Visiting Forces (British Commonwealth)
Act, 1933.110
General
4914

[23 GEO. 5, c. 6.]

An Act to make provision with respect to forces of His Majesty from other parts of the British Commonwealth when visiting the United Kingdom or a colony; with respect to the exercise of command and discipline when forces of His Majesty from different parts of the Commonwealth are serving together; with respect to the attachment of members of one such force to another such force, and with respect to deserters from such forces. [29th March, 1933.]

1.—(1) When a visiting force is present in the United Kingdom, it shall be lawful for the naval, military and air force courts and authorities (in this Act referred to as the "service courts" and "service authorities") of that part of the Commonwealth to which the force belongs to exercise within the United Kingdom in relation to members of the force in matters concerning discipline and in matters concerning the internal administration of the force all such powers as are conferred upon them by the law of that part of the Commonwealth.

Provisions with respect to the discipline and internal administration of visiting forces.

(2) The members of any such service court as aforesaid exercising jurisdiction by virtue of this Act and witnesses appearing before any such court shall enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction by virtue of the Naval Discipline Act, the Army Act or the Air Force Act, as the case may be, and by witnesses appearing before such a court.

(3) Where any sentence has, whether within or without the United Kingdom, been passed upon a member of a visiting force by a service court of that part of the Commonwealth to which the force belongs, then for the purposes of any legal proceedings within the United Kingdom the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of that part of the Commonwealth, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a visiting force who is detained in custody in pursuance of any such sentence, or pending the determination by such a service

court as aforesaid of a charge brought against him, shall for the purposes of any such proceedings as aforesaid be deemed to be in legal custody.

For the purposes of any such proceedings as aforesaid a certificate under the hand of the officer commanding a visiting force that a member of that force is being detained for either of the causes aforesaid shall be conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of that part of the Commonwealth to which the force belongs shall be conclusive evidence of that fact.

(4) No proceedings in respect of the pay, terms of service or discharge of a member of a visiting force shall be entertained by any court of the United Kingdom.

(5) For the purpose of enabling such service courts and service authorities as aforesaid to exercise more effectively the powers conferred upon them by this section, the Admiralty, Army Council, or Air Council, as the case may be, if so requested by the officer commanding a visiting force, or by the Government of that part of the Commonwealth to which the force belongs, may from time to time by general or special orders to any home force direct the members thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of that part of the Commonwealth, and to hand over any person so arrested to the appropriate authorities of the visiting force.

2.—(1) His Majesty may by Order in Council authorise any Government Department, Minister of the Crown, or other person in the United Kingdom, to perform, at the request of such authority or officer as may be specified in the Order, but subject to such limitations as may be so specified, any function in relation to a visiting force and members thereof which that department, Minister, or person performs or could perform in relation to a home force of like nature to the visiting force, or in relation to members of such a force and, for the purpose of the exercise of any such function, any power exercisable by virtue of any enactment by the Minister, department or person in relation to a home force or members thereof shall be exercisable by him or them in relation to the visiting force and members thereof :

Relations
of visiting
forces to
the civil
power and
civilians.

Provided that nothing in this subsection shall authorise any interference with the visiting force in matters relating to discipline, or to the internal administration of the force.

For the purposes of this subsection, the Admiralty, the Army Council and the Air Council shall be deemed to be Government departments

(2) If His Majesty by Order in Council so provides, members of a visiting force if sentenced by a service court of that part of the Commonwealth to which the force belongs to penal servitude, imprisonment or detention may, under the authority of a Secretary of State or the Admiralty, given at the request of the officer commanding the visiting force, be temporarily detained in custody in prisons or detention barracks in the United Kingdom, and if so sentenced to imprisonment may, under the like authority, be imprisoned during the whole or any part of the term of their sentences in prisons in the United Kingdom, and His Majesty may by the same or a subsequent Order make provision with respect to any of the following matters, that is to say, the reception of such persons from, and their return to, the service authorities concerned, their treatment while in such custody, or while so imprisoned, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody, or while so imprisoned.

Any costs incurred in the maintenance and return of or otherwise in connection with, any person dealt with in accordance with the provisions of this subsection shall be defrayed in such manner as may, with the consent of the Treasury, be agreed between the Secretary of State or the Admiralty and the Government of that part of the Commonwealth which is concerned.

(3) Subject as hereinafter provided, any enactment (whether contained in the Naval Discipline Act, the Army Act, the Air Force Act or any other statute) which—

- (a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of, the home forces or any of them from the operation of any enactment; or
- (b) in virtue of a connection with the home forces or any of them, confers a privilege or immunity on any person; or
- (c) in virtue of such a connection, excepts any property, trade or business, in whole or in part, from the operation of any enactment, or from any tax, rate, imposition, toll or charge; or
- (d) imposes upon any person or undertaking obligations in relation to the home forces, or any of them, or any member or service court thereof; or
- (e) penalises misconduct by any person in relation to the home forces or any of them, or any member or service court thereof,

shall, with any necessary modifications, apply in relation to a visiting force as it would apply in relation to a home force of a like nature to the visiting force.

Provided that His Majesty may by Order in Council direct that any such enactment either shall not apply, or shall apply with such exceptions and subject to such adaptations or modifications as may be specified in the Order.

(4) An Order in Council under this section may apply either generally, or in relation to visiting forces from any particular part of the Commonwealth, or in relation to any particular visiting force, or in relation to any particular place.

3.—(1) The forces to which this section applies are such of the naval, military and air forces of His Majesty raised in the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, or Newfoundland, as His Majesty may by Order in Council direct. Provisions with respect to deserters from certain forces.

(2) Subject to the provisions of this section, paragraphs (1) to (4) of section one hundred and fifty-four of the Army Act (which relates to the apprehension of deserters and absentees without leave from a home military force) shall within the United Kingdom apply in relation to a deserter, or absentee without leave from any force to which this section applies (including any member of a reserve or auxiliary force who, having failed to obey a notice calling upon him to appear at any place for service, is by the law of that part of the Commonwealth to which the force belongs liable to the same punishment as a deserter, or to the same punishment as an absentee without leave), as they apply in relation to a deserter, or absentee without leave, from a home military force:

Provided that any reference in the said paragraphs to military custody shall be construed as including a reference to naval or air force custody.

(3) No person who is alleged to be a deserter from any such force as aforesaid shall be apprehended or dealt with under this section except in compliance with a specific request from the Government of that part of the Commonwealth to which the force belongs, and a person so dealt with shall be handed over to the authorities of that part of the Commonwealth at such place on the coast or frontier of the United Kingdom as may be agreed:

Provided that a person who is alleged to be a deserter or absentee without leave from a visiting force may also be apprehended and dealt with under this section in compliance with a request, whether specific or general, from the officer commanding that force, and shall, if that force is still present in the United Kingdom, be handed over to the officer commanding that force at the place where the force is stationed.

(4) For the purposes of any proceedings under this section—

- (i) a document purporting to be a certificate under the hand of the Secretary of the Admiralty, the Secretary of the Army Council or the Secretary of the Air Council, that a request has been made under subsection (3) of this section shall be admissible without proof as evidence of the making of such a request ;
- (ii) a document purporting to be a certificate under the hand of the officer commanding a unit or detachment of any force to which this section applies that a named and described person was at the date of the certificate a deserter, or absentee without leave, from that force shall be admissible without proof as evidence of the facts so certified.

4.—(1) The forces, other than home forces, to which this section applies are the naval, military and air forces of His Majesty raised in the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State or Newfoundland.

Attach-
ment of
personnel
and mutual
powers of
command.

(2) The Admiralty, Army Council or Air Council, as the case may be—

- (i) may attach temporarily to a home force any member of another force to which this section applies who is placed at their disposal for the purpose by the service authorities of that part of the Commonwealth to which the other force belongs ;
- (ii) subject to anything to the contrary in the conditions applicable to his service, may place any member of a home force at the disposal of the service authorities of another part of the Commonwealth for the purpose of being attached temporarily by those authorities to a force to which this section applies belonging to that part of the Commonwealth.

(3) Whilst a member of another force is by virtue of this section attached temporarily to a home force, he shall be subject, as the case may be, to the Naval Discipline Act, or to military law as an officer or soldier, or to the Air Force Act as an officer or airman, in like manner, and shall be treated and shall have the like powers of command and punishment over members of the home force to which he is attached, as if he were a member of that force of relative rank¹ :

Provided that His Majesty may by Order in Council direct that in relation to members of a force of any part of the Commonwealth specified in the Order, the Naval

¹ See table of relative ranks appended hereto.

Discipline Act, the Army Act or the Air Force Act, as the case may be, shall apply with such exceptions and subject to such adaptations and modifications as may be so specified.

(4) When a home force and another force to which this section applies are serving together, whether alone or not—

(a) any member of the other force shall be treated and shall have over members of the home force the like powers of command as if he were a member of the home force of relative rank¹; and

(b) if the forces are acting in combination, any officer of the other force appointed by His Majesty, or in accordance with regulations made by or by authority of His Majesty, to command the combined force, or any part thereof, shall be treated and shall have over members of the home force the like powers of command and punishment and may be invested with the like authority to convene, and confirm the findings and sentences of, courts martial as if he were an officer of the home force of relative rank¹ and holding the same command.

(5) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if and only if they are declared to be so serving or so acting by order of the Admiralty, the Army Council or the Air Council, according as the home force is a naval, a military or an air force, and the relative rank of members of the home forces and of other forces shall be such as may be prescribed by Regulations made by His Majesty².

8.—(1) His Majesty may as regards any colony by Order in Council direct that the provisions of sections one to three of this Act, or such of those provisions as may be specified in the Order, shall, subject to such adaptations and modifications as may be so specified, apply in that colony in relation to forces visiting that colony and in relation to deserters and absentees without leave, as they apply in the United Kingdom.

Application of Act to colonies.

An Order in Council under this subsection may apply any such provisions either generally, or in relation to the forces of any particular part of the Commonwealth, or in relation to any particular visiting force.

(2) His Majesty may as regards any colony by Order in Council direct that the provisions of section four of this Act shall, with such exceptions and subject to such adaptations and modifications as may be specified in the Order, apply in relation to all or any of the forces raised in that colony, and in relation to officers and members thereof, as they apply in relation to home forces and officers and members thereof.

¹ See table of relative ranks appended hereto.

² See copy of regulations appended hereto.

(3) In this section the expression "colony" includes Aden and any territory which is under His Majesty's protection.

6.—This Act shall apply—

- (a) in relation to any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom as if that territory were for the time being a colony ;
- (b) in relation to any territory in respect of which such a mandate is being exercised by His Majesty's Government in a Dominion as if that territory were for the time being part of that Dominion ;

Applica-
tion of Act
to man-
dated and
certain
other
territories.

and for the purposes of this Act, any other territory which is being administered by His Majesty's Government in a Dominion shall be deemed to form part of that Dominion.

7.—(1) So far as regards any naval force and the members of any such force, the provisions of this Act shall be deemed to be in addition to and not in derogation of such of the provisions of the Naval Discipline Act and of any other Act of Parliament, whether of the United Kingdom or of any other part of the Commonwealth, as are for the time being applicable to that force and the members thereof.

Saving for
other
enact-
ments.

(2) So far as regards the military and air forces of any Dominion to which this subsection applies and the members of any such forces, the provisions of this Act shall be deemed to be in addition to and not in derogation of the provisions of any Act of Parliament whether of the United Kingdom or of the Dominion which, by virtue of sections one hundred and seventy-seven and one hundred and eighty-seven C. of the Army Act or, as the case may be, by virtue of the corresponding sections of the Air Force Act, are for the time being applicable to a force of that Dominion and the members of that force.

The Dominions to which this subsection applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

8.—(1) In this Act—

"The Commonwealth" means the British Commonwealth of Nations, and "Dominion" has the same meaning as in the Statute of Westminster, 1931 ;

Interpreta-
tion, &c.

"Home forces" means the naval, military and air forces of His Majesty raised in the United Kingdom ; and "home force" includes any body, contingent, or detachment of any of the home forces, wherever serving ;

22 & 23
Geo. 5. c. 4.

"Visiting force" means any body, contingent or detachment of the naval, military and air forces of His Majesty raised in the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State or Newfoundland which is, with the consent of His Majesty's Government in the United Kingdom, lawfully present in the United Kingdom;

"Forces" includes reserve and auxiliary forces;

"Court" includes a service Court of Inquiry, and any officer of a visiting force who is empowered by the law of that part of the Commonwealth to which the force belongs to review the proceedings of a service court, or to investigate charges, or himself to dispose of charges, and the expression "sentence" shall be construed accordingly;

"Internal administration" in relation to any visiting force includes the administration of the property of a deceased member of the force; and

"Member" in relation to a visiting force includes any person who is by the law of that part of the Commonwealth to which the force belongs subject to the naval, military or air force law thereof, and who, being a member of another force, is attached to the visiting force, or, being a civilian employed in connection with the visiting force, entered into his engagement outside the United Kingdom.

(2) An Order in Council under this Act may be revoked or varied by a subsequent Order in Council.

9. This Act may be cited as the Visiting Forces Short title. (British Commonwealth) Act, 1933.

By Command of the Army Council,



THE WAR OFFICE,

31st August, 1935

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88
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MANUAL OF MILITARY LAW

1929

AMENDMENTS (No. 12)

Pages 270-353. Chapter XIV:—

Delete Introductory Note and paragraphs 1-510 and *substitute*:—

CHAPTER XIV.

THE LAWS AND USAGES OF WAR ON LAND

Introductory Note.

Amdt. 12
Jan. 1936.

This Chapter, as it appeared in the 1914 edition, was based on the international declarations and conventions which had been concluded and had come into force up to that time. In these declarations it was foreseen that improvements which science might effect in the armaments of troops, would need consideration at some future date.

The Great War intervened, introducing new weapons. As a result of the war, a great impetus has been given to international conferences for strengthening the edifice of peace and for determining the laws and usages of war. The circumstances under which war may be resorted to have been restricted under the Covenant of the League of Nations, while war itself, except in national defence, has been outlawed under the Pact of Paris (Briand-Kellog Pact) of 1928. In addition, the Conventions relating to the treatment of Prisoners of War and the Wounded and Sick in Armies in the field were revised in 1929 in the light of experience gained during the Great War, whilst the Gas Protocol of 1925, to which the great majority of the States of the world have subscribed, has incorporated in International Law the prohibition of the use in war of gases, and bacteriological means of waging war. The present revision of this chapter has been brought up to date by the inclusion of these agreements, which have, however, been ratified as yet by only a limited number of States. Whilst, therefore, the chapter does not necessarily represent a code universally accepted, it may be considered as the best guide at present available on the subjects of which it treats.

Ch. XIV

In revising this chapter, no account has been taken of the recommendations of various conferences which, though representing a substantial measure of agreement, have not, as yet, been embodied in international conventions, and have not, in consequence, received the force of International Law. Such draft agreements must, however, be considered as International Law in the making (such, for instance, as the draft conventions for "Rules for the control of radio in time of war" and "Rules of Aerial Warfare" elaborated at The Hague, 1922-3, and the "Report of the Special Committee of the Disarmament Conference, Geneva, 1932, on Chemical and Bacteriological Weapons").

There can, in the nature of things, be no finality regarding the laws and usages of war on land. Under the post-war regime, fresh conventions are constantly under negotiation under the auspices of the League of Nations and other International bodies, and the acts of signature, accession and ratification by the States concerned affect the application of existing conventions between them.

I.—ORIGIN AND NATURE OF THE LAWS AND USAGES OF WAR.

Origin of
the usages
and laws of
war.

1. The laws of war are the rules respecting warfare with which, according to International Law, belligerents and neutrals are bound to comply. In antiquity and in the earlier part of the Middle Ages no such rules of warfare existed: the practice of warfare was unsparingly cruel and the discretion of the commanders was legally in no way limited. During the latter part of the Middle Ages, however, the influences of Christianity as well as of chivalry made themselves felt, and gradually the practice of warfare became less savage. The present laws of war are the result of a slow and gradual growth. Isolated milder war practices became in the course of time usages, so-called *usus in bello*, manner of warfare, and these usages were developed into legal rules by custom and treaties.

Customary
rules and
written
rules.

2. The laws of war consist therefore partly of customary rules, which have grown up in practice, and partly of written rules, that is, rules which have been purposely agreed upon by the Powers in international treaties. Side by side with these customary and written laws of war there are in existence, and are still growing, usages concerning warfare. While the laws of war are legally binding, usages are not, and the latter can therefore, for sufficient reasons, be disregarded by belligerents.¹ Usages have, however, a tendency gradually to harden into legal rules of warfare, and the greater part of the present laws of war have grown up in that way.

Three
principles
determining
development
of laws and
usages of
war.

3. The development of the laws and usages of war is determined by three principles. There is, firstly, the principle that a belligerent is justified in applying any amount and any kind of force which is necessary for the purpose of war: that is, the complete submission of the enemy at the earliest possible moment with the least possible expenditure of men and money. There is, secondly, the principle of humanity, which says that all such kinds and degrees of violence as are not necessary for the purpose of war are not permitted to a belligerent. And there is, thirdly,

¹ As to the means of securing legitimate warfare, see para. 435 *et seq.*

the principle of chivalry, which demands a certain amount of fairness in offence and defence, and a certain mutual respect between the opposing forces. Ch. XIV
—

4. The existing written agreements which affect the military¹ forces are* :—

- (i) The Declaration of St. Petersburg, 1868, "Renouncing the use, in time of war, of Explosive Projectiles under 400 grammes weight." (App. 1.)
- (ii) The two Hague Declarations, 1899,
 - (a) "Respecting Expanding Bullets"² (App. 2) and
 - (b) "Respecting Asphyxiating Gases"³, (App. 3).
- (iii) The Geneva Convention of 1906⁴ (App. 4) "For the Amelioration of the Condition of the Wounded and Sick in Armies in the Field."
- (iv) The Hague Conventions, 1907,
 - (a) "Relative to the opening of Hostilities" (App. 5),
 - (b) "Concerning the Laws and Customs of War on Land"⁵ (App. 6), and
 - (c) "Respecting the Rights and Duties of Neutral Powers and Persons in War on Land" (App. 7).
- (v) A portion of the Hague Convention, 1907, "Respecting Bombardments by Naval Forces in time of War" (App. 8).
- (vi) The Hague Declaration, 1907, "Prohibiting the Discharge of Projectiles and Explosives from Balloons"⁶ (App. 9).
- (vii) The Geneva Protocol, 1925, "Prohibiting the use in war of Asphyxiating, Poisonous and other Gases and of Bacteriological Methods of warfare." (Hereinafter referred to as the Gas Protocol of 1925. App. 25.)

¹ Such agreements as concern the naval forces only are not enumerated here. Officers charged with duties in connection with coast defences and defended ports should, in addition to the Conventions outlined in para. 4, make themselves acquainted with the contents of the Hague Conventions dealing with the "Laying of Automatic Submarine Contact Mines" and "The Right of Capture in Naval War."

² For the text of these agreements see Appa. 1 to 9, and 23, 24 and 25 of this chapter.

³ The question of the legality of the use of "tracer," "incendiary" or "explosive" projectiles by or against aircraft was considered by a Commission which met at the Hague in 1922-1923 in accordance with the Resolution of the Washington Conference of 1921-1922. The draft rules prepared by the Commission have, however, not yet become the subject of an international agreement.

⁴ By art. 5 of the Treaty of Washington, 1922, the U.S.A., the British Empire, France, Italy and Japan assented to the prohibition of chemical warfare in all its forms, but the treaty has not yet been ratified. A Protocol signed at Geneva in 1925 by most of the civilized powers prohibits the use of bacteriological methods as well as the use of poison gas in warfare. Although the Hague Declaration of 1899 is theoretically still binding, the fact that it was deliberately broken in the Great War, 1914-1918, and that preparations for chemical warfare can be made without fear of detection, must be borne in mind.

⁵ This Convention is only binding on signatories who have not ratified or acceded to the Geneva Convention of 1929 (see App. 23). The Geneva Convention, 1864, is still binding on those of its signatories who have not ratified or acceded to either of the Geneva Conventions of 1906 and 1929.

⁶ To this Convention are annexed "Regulations respecting the Laws and Customs of War on Land," consisting of 56 articles. These are referred to in this chapter as the Hague Rules. Thus art. 23 of the Regulations is referred to as Hague Rules 23. The International Convention relative to the treatment of Prisoners of War, signed at Geneva on the 27th July, 1929, is complementary to Chapter II of these Regulations. (See art. 89, Prisoners of War Convention, App. 24.)

The Hague Convention of 1899, "Concerning the Laws and Customs of War on Land," is still binding on the signatories of that Convention who have not ratified or acceded to the Convention of 1907.

⁷ See para. 41 (iv) and note 2 thereto.

Ch. XIV (viii) The Geneva Convention, 1929, "For the Amelioration of the Condition of the Wounded and Sick in Armies in the Field."¹ (Hereinafter referred to as the Red Cross Convention. App. 23.)

(ix) The Geneva Convention, 1929, "Relative to the Treatment of Prisoners of War."² (Hereinafter referred to as the Prisoners of War Convention. App. 24.)

Agreements
recognised
to be
incomplete.

5. The above-mentioned Convention "Concerning the Laws and Customs of War on Land," does not pretend to provide a complete code, and cases beyond its scope therefore still remain the subject of customary rules and of usage.³

Which
States are
bound by
the inter-
national
agreements.

6. The Conventions and Declarations above mentioned are, strictly speaking, only binding on the Powers which have agreed to them, and have not subsequently denounced them, and then only in a war in which all the belligerent states engaged are parties to them. Similarly, if one Power had not agreed to a particular article of these Conventions, that article would not be binding on the other belligerents although they might have contracted to accept it.⁴

In the absence of agreements, nations are bound, however, by the usages which preceded formal conventions, and which, as was shown in 1870-1, amount to the same thing.

The Red Cross and Prisoners of War Conventions of 1929 stipulate that the high contracting parties shall respect the provisions of these Conventions in all circumstances. If, in time of war, a belligerent is not a party to the Conventions, their provisions shall, nevertheless, be binding as between all the belligerents who are parties thereto.⁵

Warfare
with
uncivilized
peoples.

7. It must be emphasised, that the rules of International Law apply only to warfare between civilized nations, where both parties understand them and are prepared to carry them out. They do not apply in wars with uncivilized states and tribes, where their place is taken by the discretion of the commander and such rules

¹ The Geneva Conventions of 1864 and 1906 "for the amelioration of the condition of the sick and wounded in armies in the field" are still binding on the parties to those Conventions who have not ratified or acceded to the Convention of 1929.

² This Convention is complementary to Chapter 2 of the Annex to the Hague Convention, 1907 (see art. 89 of the Convention). In fact, however, it covers the whole ground of Chapter 2, except arts. 10 to 12, which deal with prisoners on parole, and so, with that exception, virtually supersedes Chapter 2 as far as the signatories to the Convention are concerned.

³ See preamble to the Convention in App. 6.

⁴ Paragraphs to this effect are to be found in each Convention and Declaration (except as regards art. 2 of "The Convention relative to the Opening of Hostilities"; see art. 3, para. 2, of the Convention in App. 5). See also footnote ⁵ below.

The Conventions above mentioned, and all the Declarations, except that "Prohibiting the Discharge of Projectiles and Explosives from Balloons," have been generally accepted by the Powers, but in some cases with reserve of certain articles. For signatories, &c., see the list after each Convention and Declaration in App. 1-9.

The experiences of the Great War, 1914-1918, subjected the Hague Rules to a severe test. On the whole, considering the magnitude of the struggle and the new engines of warfare which were employed, the Rules did not work badly, and their absence would have been disastrous. At some future time they will require to be re-considered at an international conference and brought more up to date. Further provision is specially required for dealing with the treatment of resident enemy subjects, the means of carrying on war, the bombardment of undefended places, the question of military reprisals, the punishment of war crimes, and the occupation of enemy territory.

⁵ "Red Cross Convention, art. 25, and Prisoners of War Convention, art. 82."

of justice and humanity as recommend themselves in the particular circumstances of the case.¹ Ch. XIV

II.—THE OPENING OF HOSTILITIES.

(i) *Declaration of War.*

8. The "Convention Relative to the Opening of Hostilities," 1907, binds the contracting Powers, in the case of war between two or more of them, not to begin hostilities without previous and explicit warning in the form of a reasoned declaration of war, or of an ultimatum with a conditional declaration of war. There is, however, nothing to impose any period of delay between the issue of notification and the beginning of hostilities. Sudden and unexpected declarations of war for the purpose of surprising an unprepared enemy are in no wise rendered impossible.

Declaration of war obligatory.

9. The signatories are bound when belligerents² to notify the existence of a state of war without delay to neutral signatory states, whose responsibilities as neutrals are, as a rule, not engaged until they receive the notification. The omission of a notification on the part of belligerents does not, however, absolve a neutral Power from its responsibilities,³ if it is actually aware of the existence of hostilities.

Notification of war to neutral States.

10. The Convention is valuable from the legal and commercial points of view, especially in a maritime war, since it compels belligerents themselves to fix and announce a definite date which is to be regarded as the beginning of hostilities and after which they are entitled to exercise the rights of belligerency and to exact from neutrals the obligations of neutrality.

Importance of the Convention concerning the opening of hostilities.

(ii) *Treatment of Resident Enemy Subjects.*

11. According to the British view, the first consequence of the existence of a condition of war between two states is that every subject of the one state becomes an enemy to every subject of the other; for it is impossible to sever the subjects from their state, and the outbreak of war between two states cannot but make their subjects enemies. Before the Great War, 1914–1918, the tendency had been, however, to regard hostilities as being restricted to the armed forces of the belligerents,⁴ and to differentiate between them and the ordinary citizens of the contending states, who did not take up arms.

General position of the ordinary citizen in war.

¹ The trend of public opinion on this subject is indicated by the discussion in the Press and by the questions and interpellations in Parliament with regard to the operations in the Sudan, 1898; in the Reichstag respecting those in China in 1900; and in the Chambre des Députés respecting those in Morocco in 1908; and further by the speech of M. Beernaert at the close of the labours of the Second Committee of the Hague Conference, 1907, of which he was President, and which drew up the revised rules in the Convention concerning the Laws and Customs of War on Land. He said, "May these rules be observed, observed in all particulars, better observed than in the past, and even with regard to races whom we have been accustomed to regard as inferior to our own." (Hague Conference, 1907, *Acts*, Vol. III, p. 89.)

² Opening of Hostilities Convention, art. 2.

³ Opening of Hostilities Convention, art. 2. See para. 465 *et seq.* as regards the duties of neutral Powers.

⁴ For definition of "armed forces," see para. 20.

Ch. XIV

Detention
of enemy
subjects
en masse.

12. It was thus formerly thought to be inadmissible to detain as prisoners subjects of one of the hostile parties travelling or resident in the country of the other at the time of the outbreak of war,¹ except perhaps in the case of grave emergency. That view gained some support from article 5 of the Regulations annexed to the Convention of 1899, concerning the Laws and Customs of War on Land, which permitted the internment of prisoners of war, and whence it was argued, *e contrario*, that the internment of enemy subjects, other than prisoners of war, was prohibited. The case has assumed a new aspect now that the liability of the whole male population to military service has become the almost universal rule; and greatly increased facilities of travel, especially at certain seasons, may result in the presence of enemy visitors in numbers which would appreciably tax the war resources of a state dependent on imported foods, or having to provide man-power for their supervision if left to their own devices. It must now be considered as a settled and lawful practice either to prevent or to compel the departure of enemy subjects present in a belligerent state, and to intern or otherwise control or restrict the liberty and vocations of those who are not compelled to depart, as may seem necessary or best adapted for preserving the safety of the state in all the circumstances of the moment.²

13. In the application of any such controls or restrictions to enemy subjects it is permissible to differentiate between ordinary enemy civilians and those known to be active or reserve officers or men of the hostile armed forces, or liable to service with these forces. The principle of self-preservation must justify belligerents in refusing to permit each other the use of hostile man-power which may be prepared to inflict military injuries upon them either from within or without their own territories.³

Expulsion
of enemy
subjects.

14. The expulsion of any or all subjects of the enemy from the territory of the opposing state is strictly admissible. In Great Britain, under the Aliens Restriction Acts of 1914 and 1919, powers are taken for the deportation of any alien at any time where the Secretary of State "deems it to be conducive to the public good."⁴

¹ The conduct of Napoleon, who in 1803 seized all British subjects travelling in France and detained all between 18 and 60 years of age, some 10,000 in number, till the peace of 1814, was at the time severely criticised. It must, however, be borne in mind that Napoleon did not claim a right to make civilians prisoners of war. He justified his act as one of reprisals, considering it a violation of international law on the part of England to begin hostilities by capturing two French merchantmen in the bay of Audierne without a formal declaration of war.

² At the beginning of the Great War, 1914-1918, both Germany and France detained and interned males of military age.

³ Persons suspected of being in communication with the enemy may without doubt be detained and interned or tried.

At the commencement of the Franco-German War, the Duke de Gramont in his despatch, dated 23rd July, 1870, to the American Minister in Paris (who was in charge of North German interests), stated that the Emperor of the French would not allow the departure of North Germans not past the age of active military service. (Washbourne, 1906, p. 41.)

Professor Lueder in Holtzendorff, 1885-1889, iv, p. 340, fully recognises the right to detain "*aktive Miltärs*" and "*Miltärpflichtige*", that is, persons belonging to and liable to be called on for duty in the army and navy. The usage of 1914-1918 was in accordance with Professor Lueder's view.

⁴ See art. 12 (6) (c) of the Aliens Order, 1920. In peace time the great majority of deportation orders are made by the Secretary of State on the recommendation of a court by which the alien has been convicted of some offence (see Article 12 (6) (a)). The power to deport without such a recommendation is usually reserved for use in cases where the alien's known character is such that his presence is undesirable, though he may not have committed any specific offence.

15. Belligerents have in recent years always acted¹ in obedience to this principle. Expulsion has also been decreed from seaport, fortresses, and defended areas, where special precautions were necessary,² and from the actual or expected theatres of hostilities.³ Ch. XIV

16. Should the expulsion of any person be ordered he should be given such reasonable notice as may be consistent with public safety, in order to make arrangements for the custody of his property and preparations for his departure.

III.—THE ARMED FORCES OF THE BELLIGERENTS.

(i) *The Division of the Enemy Population into Two Classes.*

17. The division of the enemy population into two classes, the armed forces and the peaceful population, has already been mentioned. Both these classes have distinct privileges, duties, and disabilities. It is one of the purposes of the laws of war to ensure that an individual must definitely choose to belong to one class or the other, and shall not be permitted to enjoy the privileges of both; in particular, that an individual shall not be allowed to kill or wound members of the army of the opposed nation and subsequently, if captured or in danger of life, to pretend to be a peaceful citizen. The armed forces and the peaceful population.

18. The forces of a belligerent have the right to withstand the enemy by all the methods not specially forbidden by the laws of war⁴; but they may be killed or injured as long as they continue to resist. Once, however, they cease resistance they have a right to humane and honourable treatment as prisoners of war. Their lives are spared, and it is the business of the captor to protect and maintain them.⁵ Rights and privileges of armed forces.

¹ In 1870 German citizens in France were at first, by notice inserted in the *Journal Officiel* of the 20th July, permitted to continue their residence as long as their conduct did not give any legitimate cause of complaint. But on the 12th August the French Government decided that with certain exceptions they must quit France. Exceptions were made in favour of persons recommended by respectable citizens of the neighbourhood. The decision was made partly because of the hostility of the populace towards Germans and of the difficulty of providing for their safety. It appears to have been modified, for on 28th August, General Trochu, the Governor of Paris, ordered every German in Paris and in the Department of the Seine to leave France or retire beyond the Loire within three days. Even this order was not effective, for foreigners in France not being registered, it was difficult to secure their departure.

At the close of the siege of Paris the American Minister reported that he had 2,900 Germans under his protection in the city. (Washburne, 1905, p. 387.)

German authorities admit the complete right of the French Government to act as they did. (Holtsendorff, 1885-1889, iv, p. 350.)

The German States in 1870 did not order the expulsion *en masse* of the French who were resident in their territories; there were, however, only 2,000 to 3,000 scattered over twenty-five states.

² During the Crimean war many British subjects were expelled from the Russian seaports of Cronstadt, Odessa and Sebastopol.

Previous to the outbreak of hostilities in 1904, the Commandant of Vladivostok declared officially that he was authorised to proclaim a state of siege, and that, when declared, all Japanese must leave within three days. (Ariga, 1908, pp. 363, 364.)

On 12th February, 1905, the Japanese military authorities at Port Arthur declared that the commander-in-chief intended to compel all foreigners to leave that fortress as soon as the preparations for its defence were complete. "It was a measure of precaution for the preservation of military secrets." This order was enforced except as regards twenty persons, agents of German, American, and Danish commercial firms, to whom it was found convenient to grant permission to remain. (Ariga, 1908, pp. 363, 364.)

³ It has already been pointed out in footnote 1 above that on the 29th August, 1870, every German in Paris and the Department of the Seine was ordered to leave.

In 1904-5, although Japanese subjects were permitted to remain in European Russia, they were required to leave Manchuria and certain parts of Asiatic Russia.

⁴ See para. 39 *supra*.

⁵ See para. 54 *supra*.

Ch. XIV

Rights and
privileges
of the
peaceful
population.

19. Peaceful inhabitants, on the other hand, may not be killed or wounded, nor as a rule taken prisoners.¹ If, however, they make an attempt to commit hostile acts, they are not entitled to the rights of armed forces, and are liable to execution as war criminals.²

(ii) *The Armed Forces.*

Who are
comprised
under the
term armed
forces.

20. Under the term armed forces are comprised :—

- (i) The army : this includes militia or volunteer corps³ in countries where they constitute the national forces or form part of them.⁴ The members of the army are entitled to recognition as belligerent forces whether they have joined voluntarily or have been compelled to do so by state law, whether they are nationals of the enemy or of a neutral state,⁵ and whether they joined before or after the declaration of war.
- (ii) Militia and volunteer corps which do not ordinarily form part of the army, but have been raised, possibly, for the duration of the war or even for the execution of some special operation. These irregular troops must, however, fulfil all of the following conditions :—
 - (a) Be commanded by a person responsible for his subordinates ;
 - (b) Have a fixed distinctive sign recognisable at a distance ;
 - (c) Carry arms openly ; and
 - (d) Conduct their operations in accordance with the laws and customs of war.⁶
- (iii) The inhabitants of a territory not under occupation⁷ who, on the approach of an enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves as laid down in (i) or (ii), provided they conform to conditions (c) and (d) laid down above for irregular combatants.⁸

Non-com-
batants.

21. Both combatant and non-combatant members of the armed forces are included in the above categories.⁹ The conditions, however, under which irregular corps obtain the rights of the armed forces require some explanation.

(iii) *The conditions required of Irregular Combatants.*

Responsible
commander.

22. The first condition, " to be commanded by a person responsible for his subordinates," is completely fulfilled if the commander of the corps is regularly or temporarily commissioned as an officer or is a person of position and authority, or if the members are provided with certificates or badges granted by the government of

¹ For further discussion of the relations between an invader and the population see paras. 340 *et seq.*, and 405 *et seq.*

² See para. 441.

³ *e.g.*, the Territorial Army.

⁴ Hague Rules, 1.

⁵ *e.g.*, the Garibaldians who fought for France in 1870-1 and the various foreigners who assisted the Boers in 1899-1902.

⁶ Hague Rules 1.

⁷ For definition of " occupied territory " see para. 341 below.

⁸ Hague Rules, 2.

⁹ Hague Rules, 3. See para. 87, footnote 4, as regards non-combatants.

the state to show they are officers, N.C.Os., or soldiers, so that there may be no doubt that they are not partisans acting on their own responsibility.¹ State recognition, however, is not essential, and an organisation may be formed spontaneously and elect its own officers.² Ch. XIV

23. The second condition, relative to the fixed distinctive sign Distinctive sign. recognisable at a distance, would be satisfied by the wearing of military uniform, but less than complete uniform will suffice. The distance at which the sign should be visible is left vague, but it is reasonable to expect that the silhouette of an irregular combatant in the position of standing against the skyline should be at once distinguishable from the outline of a peaceful inhabitant, and this by the naked eye of ordinary individuals, at a distance at which the form of an individual can be determined.³ As encounters now take place at ranges at which it is impossible to distinguish the colour or the cut of clothing, it would seem desirable to provide irregulars with a helmet, slouch hat, or forage cap, as being completely different in outline from the ordinary civilian head-dress.

24. It may, however, be objected that a head-dress does not legally fulfil the condition that the sign must be fixed. Something of the nature of a badge sewn on the clothing should therefore be worn in addition.⁴

¹ Identity discs were issued to all ranks in the Great War, 1914-1918.

² In 1870 the Germans issued the following notice:—

"Every prisoner who claims to be treated as a prisoner of war must prove his status as a French soldier by the production of an order issued by a competent authority and addressed to himself showing that he has been summoned to the colours and is borne on the rolls of a military unit raised by the French Government." (*Kriegsbrauch*, 1902, p. 6.) Germany would appear to refuse recognition to "individual irregulars, or to small bands," unless they can prove that they have State authorisation. (*Kriegsbrauch*, 1902, p. 5.) The Hague Rules now make such conditions unlawful, for there is no mention in them of State authorisation.

³ The Japanese authorities informed the Russians in 1904 that the sign should be "easily distinguishable by the naked eye of ordinary people." (*Ariga*, 1908, pp. 85, 86.) *Kriegsbrauch*, 1902, p. 7, demands that it should be plainly visible at long (*weits*) range.

⁴ This might take the form of a device sewn to, or embroidered on, the breast of the coat or uniform buttons on the coat, or a coloured stripe on the trousers, or two coloured arm-bands or some similar indication. It has been suggested that one white or distinctive coloured sleeve to the coat, or a sash sewn across the coat, would largely satisfy all the conditions. There appear to be objections to the use of a single red arm-band, as it might be mistaken for the brassard of the Geneva Convention, or the arm-band used in some armies as the badge of neutral attachés, newspaper correspondents, and others.

The following historical examples of distinctive marks are of interest:—

In 1870 the un-uniformed French *Garde Nationale Mobile*, and the *franc-tireurs* wore blue or grey blouses with a red arm-band (in some cases a red shoulder strap); the former in addition had *épis*. The German Government did not consider the blouse and arm-band sufficiently distinctive. The following is the translation of part of the telegram of the German Chancellor communicated by the medium of the American Minister to the French authorities:—

"The blue blouse is the national costume, the brassard on the arm is only distinguishable at a short distance, and can be taken off or replaced instantly, with the result that it becomes impossible for the Prussian troops to distinguish the individuals from whom they have to expect acts of hostility. In consequence, those not recognisable as soldiers on all occasions and at the necessary distance, who kill or wound Prussians, will be tried by Martial Law." (*Guelle* I, 1884, p. 77.) (*Kriegsbrauch*, 1902, p. 7.)

In 1904 certain Japanese civilians who were organised into a volunteer corps to assist in the defence of Ping-yang wore white helmets, European clothes (amid a population wearing Chinese), and a flower embroidered in red thread on their coats. (*Ariga*, 1908, p. 82.)

The Russian volunteers on the Island of Saghalien had no military uniform, and as distinctive signs had on their caps a cross or a cross with the letters M.P. (*Manchourische Polk* (Manchurian Regiment)), on their sleeves a red band about two-thirds of an inch broad, and a red edging to their greatcoats and caps. (*Ariga*, 1908, pp. 85, 86.) It is not clear from Professor Ariga's work whether these signs satisfied the Japanese. Certain irregular combatants taken prisoners by them were shot. (*Ariga*, 1908, p. 87.)

Ch. XIV

Carrying
of arms
openly.

Compliance
with the
laws of war.

Conditions
under
which an
armed
rising of
inhabitants
is recog-
nised.

25. It is not necessary to inform the enemy of the distinctive mark adopted to fulfil the second condition,¹ although to avoid misunderstandings it may be convenient to do so.²

26. The third condition provides that irregular combatants shall carry arms openly. They may therefore be refused the rights of the armed forces if it is found that their sole arm is a pistol, hand-grenade, or dagger concealed about the person, or a sword stick, or similar weapon, or if it is found that they have hidden their arms on the approach of the enemy.

27. The fourth condition requires that irregular corps shall conduct their operations in accordance with the laws and customs of war. It is especially necessary that they should be warned against employment of treachery, maltreatment of prisoners, wounded, and dead, improper conduct towards flags of truce, pillage and unnecessary violence and destruction.

28. It is taken for granted that all members of the army³ as a matter of course will comply with the four conditions; should they, however, fail in this respect⁴ they are liable to lose their special privileges of armed forces.

(iv) *The Levée en Masse.*

29. A rising of "the inhabitants of a territory not under occupation who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organise themselves," is spoken of as a *levée en masse*. Such inhabitants are recognised as having the privileges of belligerent forces if they fulfil the last two conditions laid down for irregulars; these are: to carry arms openly and to conduct their operations in accordance with the laws and customs of war. They are exempt from the obligations of being under the command of a responsible commander and wearing a distinctive sign. It must, however, be emphasized that the inhabitants of a territory already invaded by the enemy who rise in arms do not enjoy the privileges of belligerent forces.⁵

30. The rules which affect a *levée en masse* should be generously interpreted. The first duty of a citizen is to defend his country, and provided he does so loyally he should not be treated as a marauder or criminal.⁶

¹ Hague Conference, 1907, *Actes*, Vol. III, pp. 20, 104-106.

² In July, 1904, the Russian Government informed the Japanese Minister at Berlin, through the intermediary of the American Chargé d'Affaires at St. Petersburg, of the distinct signs which were worn by the "volunteers" in Saghalien. (See last paragraph of note to para. 24.)

³ As defined in para. 20 above.

⁴ For example, by concealing their uniform under civilian clothes, or using civilian clothes without a distinctive mark owing to their uniforms having worn out. The use of the enemy's uniform is dealt with in para. 152, below.

⁵ Hague Rules, 2.

The South African War of 1899-1902 affords an example of the first two conditions being dispensed with.

⁶ Considerable difficulty was experienced at the Hague Conference, 1899, in obtaining the adoption of art. 2 of the Rules respecting the Laws and Customs of War on Land. The countries which had large armies raised by universal service insisted that only the persons referred to in art. 1 should be considered as belonging to the belligerent forces; they drew attention to the fact that, if all the inhabitants were permitted to fight without any conditions, art. 1, which requires four essential conditions for the quality of belligerent, became entirely useless; that the invading army would have no means of distinguishing peaceful inhabitants from combatants, and thereby might be led to consider all inhabitants as active enemies and to attack them. The small States, however, replied that although they were not compelled to keep up large armies based on a system of conscription, they had nevertheless the right to defend their countries in case of need, and then they might have recourse to a *levée en masse*.

A compromise was made and is embodied in art. 2, which authorises the *levée en masse* of the population of a territory not occupied, on the enemy's approach. (See *Procès-verbaux* p. 51.)

⁷ Conférence Internationale de la Paix. Ministère des Affaires Étrangères, La Haye, 1899, p. 51.)

31. The word "territory" in this relation is not intended to mean the whole extent of a belligerent state, but refers to any part of it which is not yet invaded. Ch. XIV

32. Thus if an enemy approaches a town or village with the purpose of seizing it, the inhabitants, if they defend it, are entitled to the rights of regular combatants, as a *levée en masse*, although they wear no distinctive mark; in this case all the inhabitants of a town may be considered legitimate enemies until the town is taken.¹

33. Should some inhabitants of a locality take part in the defence, it might be justifiable to treat all the males of a military age as prisoners of war.

34. The privileges granted to irregular combatants by article 1 of the Hague Rules² apply whether these combatants are acting in immediate combination with a regular army or separate from it.

35. It is necessary to remember that inhabitants who have legitimately taken up arms cannot afterwards change their status back to that of peaceful inhabitants. Even if they lay down their arms and return to their peaceful avocations they may be made prisoners of war. Permanent character of belligerent status.

36. Deserters and subjects of a belligerent fighting in the enemy's ranks are traitors to their country, and are, when captured, liable to the penalty for treason. They cannot be regarded as enemies in the military sense of the term and cannot claim the privileges of the members of the armed force of the enemy, but terms may be specially made for them. Fugitives and deserters.

37. It is not, however, for officers or soldiers in determining their conduct towards a disarmed enemy to occupy themselves with his qualifications as a belligerent. Whether he belongs to the regular army or to an irregular corps, is an inhabitant or a deserter, their duty is the same: they are responsible for his person and must leave the decision of his fate to competent authority. No law authorises them to have him shot without trial, and international law forbids summary execution absolutely. If his character as a member of the armed forces is contested he should be sent before a court for examination of the question. Duty of officers as regards legal status of combatants.

(v) *Coloured Troops.*

38. Troops formed of coloured individuals belonging to savage tribes and barbarous races should not be employed in a war between civilized states. The enrolling, however, of individuals Employment of coloured troops.

¹ Professor Ariga gives as an example the defence of Ying-kou on the 12th February, 1905, in which only 70 of the 400 defenders were Japanese soldiers, the remainder being post officials, military telegraphists, settlers and men of the commercial classes; they had time to organize themselves, but had no distinctive mark. (Ariga, 1908, pp. 83-91.)

In some terms of surrender, e.g., those of Metz and Port Arthur, the volunteers from among the inhabitants who had assisted the armed forces have been specially mentioned as included, in order, no doubt, to avoid any misunderstanding.

In September, 1870, the Germans shot certain inhabitants of Bazeilles who had taken an active part in the defence of the village during the battle of Sedan on the ground that they had offered violence to Bavarian soldiers, and had fired from the cellars of houses already captured, sparing neither wounded nor stretcher bearers (Official Account of Franco-Prussian War, 1870-1, part 1, vol. 2, p. 316), that is for infringement of the laws and customs of war. The Japanese shot twenty-five inhabitants of Vladimirovka who were taken prisoners armed but without any distinctive sign to show they were combatants. In this case the reason alleged was that they were not inhabitants defending their hearths, property and country, but convicts and vagabonds ignorant of the laws of war. (Ariga, 1908, p. 87.)

² See para. 20 (ii), above.

Ch. XIV — belonging to civilized coloured races and the employment of whole regiments of disciplined coloured soldiers is not forbidden.

IV.—THE MEANS OF CARRYING ON WAR.

Illustration
of means
of carrying
on war.

39. The first principle of war is that the enemy's powers of resistance must be weakened and destroyed. The means that may be employed to inflict injury on him are not, however, unlimited.¹ They are in practice definitely restricted by international conventions and declarations, and also by the customary rules of warfare. And, moreover, there are the dictates of religion, morality, civilization, and chivalry which ought to be obeyed. The means include both force and stratagem.

(i) *The means of Carrying on War by Force.*

General
means of
carrying
on war by
force.

40. The most important powers of resistance possessed by an enemy, in addition to the general resources of his country,² are furnished by his armed forces with their military stores and apparatus, and his permanent or improvised fortresses. The means of reducing these powers of resistance are:—Killing and disabling the enemy combatants; constraining them by defeat or exhaustion to surrender, that is taking them prisoners; and the investment, bombardment, or siege of the fortresses. How far an invader is allowed to damage, destroy, or appropriate property and injure the general resources of a country, will be considered later.³

(i) A.—*Killing and Disabling the Enemy Combatants.*

Inter-
national
agreements.

41. The international agreements limiting the means of destruction of enemy combatants are contained, apart from article 23 of the Hague Rules, in five Declarations by which the contracting parties, of which Great Britain is one, engage:—

- (i) "to renounce in case of war amongst themselves the employment by their military and naval forces of any projectile of a weight below 400 *grammes* (approximately 14 oz.), which is either explosive or charged with fulminating or inflammable substances";⁴
- (ii) "to abstain from the use of bullets with a hard envelope which does not entirely cover the core, or is pierced with incisions";⁵
- (iii) "to abstain from the use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases";⁶

¹ Hague Rules, 22. "Belligerents have not an unlimited right as to the choice of means of injuring the enemy."

² The general resources of a country have become a determining factor in its ability to wage a national war successfully, owing to the increase in size of the armed forces engaged, and to the tremendous quantities of munitions required. Consequently every legitimate method of hindering the production of munitions will inevitably form an important means of reducing an enemy's power of resistance.

³ See para. 405 *et seq.*

⁴ Declaration of St. Petersburg, 1868. For a list of parties to the Declaration, see App. 1.

⁵ Hague Declaration, 1890. For a list of parties to the Declaration, see App. 2.

⁶ Hague Declaration, 1890. For a list of parties to the Declaration, see App. 3.

- (iv) "to prohibit, for a period extending to the close of the Third Peace Conference,¹ the discharge of projectiles and explosives from balloons or by other new methods of a similar nature."² Ch. XIV
- (v) "to prohibit the use in war of asphyxiating, poisonous, and other gases, and of bacteriological methods of warfare."³ —

42. It is expressly forbidden to employ arms, projectiles or material calculated to cause unnecessary suffering.⁴ Under this heading might be included such weapons as lances with a barbed head, irregularly-shaped bullets, projectiles filled with broken glass, and the like⁵; also the scoring of the surface of bullets, the filing off the end of their hard case, and smearing on them any substance likely to inflame a wound. The prohibition is not, however, intended to apply to the use of explosives contained in mines, aerial torpedoes, or hand-grenades. Prohibited means of killing.
Arms which cause unnecessary suffering.

43. The use of poison and poisoned weapons, asphyxiating, poisonous, and other gases and bacteriological methods of warfare is forbidden.⁶ Poison, &c.

44. The deliberate contamination of sources of water by throwing into them corpses of human beings or animals is a practice confined to savage tribes. There is, however, no rule to prevent measures being taken to dry up springs, and to divert rivers and aqueducts.

45. Train wrecking, and setting on fire camps or military depôts are legitimate means of injuring the enemy when carried out by members of the armed forces.

46. Assassination, the killing or wounding of a person behind the line of battle by enemy agents or partisans, and the killing and wounding by treachery of individuals belonging to the hostile nation or army, are not lawful acts of war,⁷ and the perpetrator of such an act has no claim to be treated as a combatant, but should be put on his trial as a war criminal.⁸ Measures should be taken to prevent such an act from being successful in case information with regard to it is forthcoming.⁹ Assassination.

47. As a consequence of the prohibition of assassination, the proscription or outlawing of any enemy, or the putting a price on an enemy's head, or any offer for an enemy "dead or alive" is not permitted. Outlawry.

¹ That is until the next Peace Conference, which has not yet taken place, has completed its labours.

² Hague Declaration, 1907. For a list of parties to the Declaration, see App. 9. It may be remarked here that hardly any of the Great Powers have signed this Declaration; it is therefore practically without force.

³ Gas Protocol, 1925. See App. 28.

⁴ Hague Rules, 23 (a).

⁵ The use of soft-nosed and explosive bullets is already provided against in the Declaration referred to in para. 41 (ii) above. According to the French Manual, 1893, p. 14, it must not be accounted reprehensible if irregular troops raised in haste to oppose an invader should in default of regulation ammunition and bayonets make use of small shot and the cutting tools which are available in the country. This, however, goes too far, since "cutting tools" include saws and the like which would cause "unnecessary suffering," and are therefore forbidden.

⁶ Hague Rules, 23 (a), and Gas Protocol, 1925.

⁷ Hague Rules, 23 (b). For instance, it would be treachery for a soldier to sham that he was wounded or dead, or to pretend that he had surrendered, and afterwards to open fire when the enemy came up to him.

⁸ See para. 441 *et seq.* below.

⁹ In 1806 an offer to assassinate Napoleon was made to the British Government by a foreigner. The man was detained (the law not permitting of his punishment) and the French Minister of Foreign Affairs was informed.

Ch. XIV

Quarter.

48. It is forbidden to declare that no quarter will be given.¹

49. It is hardly necessary to state that the custom is now obsolete by which quarter could be refused to the garrison of a fortress carried by assault, to the defenders of an unfortified place who did not surrender when artillery was brought against it, and to a weak garrison who obstinately and uselessly persevered in defending a fortified place against overwhelming forces.

Killing of
surrendered
combatants.

50. It is forbidden to kill or wound an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion.²

51. This prohibition is clear and distinct; there is no question of the moment up to which acts of violence may be continued without disintitling the enemy to be ultimately admitted to the benefit of quarter. War is for the purpose of overcoming armed resistance, and no vengeance can be taken because an individual has done his duty to the last but escaped injury.³

Infractions
of laws of
war.

52. Few wars have occurred without both belligerents making mutual charges of breaches of the laws of war.⁴ Such charges as have been proved have almost invariably been shown to have been the deeds of subordinates who have acted through ignorance or excess of zeal; they have less often been deliberate acts.⁵ Care must therefore be taken that all ranks are acquainted with the laws of war and that they endeavour to observe them.

53. A belligerent is not justified in at once dispensing with obedience to the laws of war on account of their suspected or ascertained violation on the part of his adversary.

(i) B.—*The Taking of Prisoners.*Changes in
treatment of
prisoners.

54. Few of the customs of war have undergone greater changes than those relating to the treatment of prisoners. In antiquity war captives were killed, or at best enslaved; in the Middle Ages they were imprisoned or held to ransom; it was only in the seventeenth century that they began to be deemed prisoners of the state and not the property of individual captors. Even during the wars of the last 100 years they were often subject to cruel neglect, unnecessary suffering and unjustifiable indignities.

Conventions
regarding
prisoners.

55. The written laws regarding prisoners of war are contained in the Prisoners of War Convention,⁶ in Chapter II of the Hague Rules,⁷ in certain paragraphs of the Red Cross Convention,⁸ and in the Convention concerning the Rights and Duties of Neutral Powers and Persons in War on Land.⁹

¹ Hague Rules, 23 (d). Formerly it was held that the general duty to give quarter did not protect an enemy who had personally violated the laws of war, who had declared his intention of refusing to grant quarter, or of violating those laws in any grave manner, or whose government or commander had done acts which justified reprisals. (See paras. 452-460.) The American Instructions, 1868, recognised the refusal of quarter in certain circumstances (arts. 60-63).

² Hague Rules, 23 (c).

³ An individual who refuses to cease firing after a general surrender has been made by his commander forfeits his privileges as a combatant.

⁴ For further examination of this question, see para. 435 *et seq.*, "Means of securing legitimate warfare."

⁵ The Great War, 1914-1918, however, produced several instances in which breaches of the laws of war were deliberate. This was notably so at Ypres in 1915 when the Germans released poison gas, and again in 1917, when they declared unrestricted submarine warfare.

⁶ App. 24.

⁷ Annex. to App. 6.

⁸ App. 23.

⁹ App. 7.

56. The following can claim to be treated as prisoners of war Ch. XIV if they fall into the hands of the enemy :—

- (a) Every member of the armed forces, unless he has committed a war crime.¹
- (b) Followers of armies—such as newspaper correspondents, reporters, sutlers and contractors—provided they can produce a certificate of authorization from the military authorities of the army they are accompanying.²
- (c) Private enemy individuals and enemy officials whom a belligerent thinks it necessary to make prisoners. Although the Hague Rules and Prisoners of War Convention do not contain anything regarding the treatment of these individuals, they are not civil prisoners, because they are taken into captivity for military reasons and are therefore prisoners of war. While in captivity they are classified either as persons of status equivalent to that of an officer, or as equivalent to persons below the rank of an officer, and are treated accordingly.
- (d) Wounded and sick.³
- (e) Deserters from the enemy, unless special circumstances render it desirable to liberate them.

Persons who may claim privileges of prisoners of war.

57. The following are also liable to be made prisoners :—

- (a) The Sovereign and male members of the Royal Family, the head of a Republican State, and the ministers who direct the policy of a state, although as individuals they may not belong to the army.
- (b) Civil officials and diplomatic agents attached to the army.
- (c) Persons whose activity is of service in the war such as higher officials, diplomatic agents, couriers, guides, etc., also all persons who, being at liberty, may be harmful to the opposing state—prominent and influential political leaders, journalists, local authorities, clergymen and teachers—in case they incite the population to resistance.⁴
- (d) The mass of a population who rise to defend their territory before it is invaded by the enemy.⁵

Civilians who are liable to be made prisoners.

58. It is contrary to usage to take as prisoners military attachés or diplomatic agents of neutral powers, who accompany an army in the field or are found in a captured fortress, provided they are in possession of papers of identification and take no part in hostilities. They may, however, be ordered out of the theatre of

Special treatment of military attachés and diplomatic agents of neutral Powers.

¹ See para. 441 *et seq.*

² Prisoners of War Convention, art. 81. Without such authorization they are liable, if found in the theatre of war, to arrest as suspected persons.

³ Red Cross Convention, art. 2.

⁴ As regards civilian inhabitants of occupied territory who are requisitioned, impressed or hired to act as transport drivers, as labourers to construct fortifications or siege works, and in similar capacities which assist the army, or who voluntarily perform such services, and who are captured while so assisting, the enemy may retain them temporarily, requisition their services (see, however, paras. 368-91), or release them as he thinks fit. But he may not retain them as prisoners of war. There is, of course, no necessity for such civilians to wear a fixed distinctive sign, recognisable at a distance" (see para. 23).

⁵ See para. 29 above.

Ch. XIV war and if necessary handed over by the capturing power to the ministers of their respective countries.¹

Persons who
cannot be
made
prisoners.

58a. The following shall not be made prisoners of war:—

(a) Chaplains attached to armies, so long as they confine themselves to their spiritual duties.²

(b) Members of the medical personnel.³

General
position of
prisoners.

59. (a) Belligerents are required to notify each other of all captures of prisoners as soon as possible through the intermediary of the Information Bureaux (*see* para. 115 below).⁴

(b) Prisoners of war are in the power of the hostile government and not of the individuals or formation which captured them.

(c) They shall be humanely treated and protected, particularly against acts of violence, from insults and from public curiosity.

(d) Measures of reprisal against prisoners of war are forbidden.

(e) Prisoners of war are entitled to respect for their persons and honour.

(f) Women shall be treated with all consideration due to their sex.

(g) Prisoners of war retain their full civil capacity as citizens of their own country.⁵

(h) The detaining power⁶ is required to provide for the maintenance of prisoners in its charge. Differences of treatment between prisoners are permissible only if such differences are based on the military rank, the state of physical or mental health, the professional abilities, or the sex of those who benefit from them.⁷

Right of
interrogation
on capture.

60. (a) Every prisoner is required, if asked, to give his true names and rank, or his regimental number. If he refuses, he exposes himself to a restriction of the privileges accorded to prisoners of his category.

(b) No pressure shall be exerted on prisoners to obtain information about their armed forces or their country. Those who refuse to reply may not be threatened, insulted, or exposed to unpleasantness or disadvantages of any kind whatsoever.

(c) A prisoner cannot be punished for giving false information about his own army.⁸

(d) A prisoner incapable of stating his identity for physical or mental reasons must be handed over to the medical service.⁹

¹ A British naval attaché and two American military attachés with the Russian force captured by the Japanese at Mukden were, after a report had been made to the Minister of Foreign Affairs, Tokio, sent to Japan and handed over to the ministers of their respective countries (*Ariga*, pp. 122, 123).

² Red Cross Convention, art. 9.

³ *See* para. 183 *et seq.*

⁴ Prisoners of War Convention, art. 8.

⁵ Prisoners of War Convention, arts. 2 and 3. This provision is superfluous as regards the countries comprising the British Commonwealth of Nations. As prisoners of war are not outlaws in these countries, they retain their legal rights. A prisoner of war should not be denied reasonable facilities for discharging his national civil and personal obligations and rights, such as replying to civil official correspondence, disposing of his personal property and affairs, and sending relevant instructions to his family or agents.

⁶ The detaining power is not necessarily the captor power.

⁷ Prisoners of War Convention, art. 4.

⁸ The shooting of a prisoner for such reasons is, as *Kriegsbrauch*, 1902, p. 16, says, "cowardly murder."

⁹ Prisoners of War Convention, art. 5.

61. All personal effects of prisoners of war—except arms, Ch. XIV horses, military equipment, and military papers—shall remain their property.¹ Metal helmets, gas-masks, identity tokens, badges of rank, decorations and articles of value may not be taken from them.² Private property of prisoners on capture.

62. Sums of money may only be taken from prisoners of war on the order of an officer and a receipt should be given. Sums thus impounded should be placed to the account of each prisoner.³ Money.

63. The captor is not responsible for personal belongings of prisoners which they are unable to take with them.⁴ Unportable property

64. Everything captured with prisoners, and not included under the term "personal effects" becomes the property of the hostile government, and not of the individuals or formation capturing them.⁴ Booty.

65. A commander in arranging terms of surrender may in his discretion permit prisoners to keep certain things otherwise liable to capture. Thus, officers are frequently allowed to retain their swords. Indulgences as regards property.

66. As soon as possible after their capture prisoners of war shall be evacuated to depôts outside the danger zone. Only prisoners who, by reason of wounds or maladies, would run greater risks by being evacuated than by remaining may be kept temporarily in a dangerous zone. The evacuation of prisoners on foot shall normally be effected by stages of not more than 20 kilometres a day.⁵ Evacuation of prisoners of war.

67. Prisoners may be interned in a town, fortress, fenced camp or other place, and may be required not to go beyond certain fixed limits. They shall not be confined or imprisoned except as a measure indispensable for safety or health, and only so long as circumstances exist which necessitate such a measure. Prisoners of War Camps.

Prisoners captured in districts which are unhealthy or whose climate is deleterious to persons coming from temperate climates shall be removed as soon as possible to a more favourable climate. Belligerents shall, as far as possible, avoid bringing together in the same camp prisoners of different races.

No prisoner may be sent to any area where he would be exposed to the fire of the fighting zone, or be employed to render any area immune from bombardment by his presence.⁶

¹ In practice, personal effects are understood to include military uniform, clothing and kit required for personal use, although technically they may be the property of government. After the battle of Sha Ho some Japanese soldiers compelled Russian prisoners to give up good boots and take their worn out ones in exchange. This was admitted to be irregular, but was excused on the ground that the men did not take the boots to enrich themselves, but in order to better serve their country. (Ariga, 1908, p. 161.) Similar stories are narrated of the Germans in 1870-1. See Letters of Major Von Kretschmann, Latreille's French translation, p. 382.

² Prisoners of War Convention, art. 6. Prisoners should be called upon to prove ownership if it is suspected that large sums of money or other objects in their possession are not their own property, or are in reality government or stolen property. Their private property elsewhere is liable to requisition in the same manner as that of other persons (see para. 405 *et seq.*).

³ The Japanese authorities, at the capitulation of Port Arthur, declined to be responsible for property of the Russian officers. "It was simply understood that the baggage not taken away would be confided to Russians remaining in the hospitals or to the ordinary inhabitants." (Ariga, 1908, p. 325.)

⁴ See para. 405, and footnote below.

⁵ See Prisoners of War Convention, art. 7, for exceptions.

⁶ Prisoners of War Convention, art. 9. For the treatment of troops interned in a neutral country, see para. 486 *et seq.*

Ch. XIV

Installation
of Camps.

68. Prisoners should be lodged in buildings or huts which afford all possible safeguards as regards hygiene and salubrity. The premises should be free from damp and adequately heated and lighted. All precautions should be taken against fire. Dormitories should have the same total area, minimum cubic air space, fittings and bedding material as for the depot troops of the detaining power.¹

Food.

69. The food ration of prisoners should be equivalent in quantity and quality to that of the depot troops of the detaining power.² (See also para. 76 *re* officers.) Due allowance should, if possible, be made for differences of habits, and captured supplies should be used if they are available.³ Prisoners should also be afforded means of preparing additional articles of food. Sufficient drinking water should be supplied to them. The use of tobacco should be authorized. Prisoners may be employed in the kitchens. All collective disciplinary measures affecting food are prohibited.⁴

Clothing.

70. Clothing, underwear and footwear should be provided by the detaining power. (See also para. 76 *re* officers.) The regular replacement and repair of such articles should be assured. Workers should also receive working kit if the nature of the work requires it.

Canteens.]

71. Canteens should be installed where prisoners can procure, at the local market price, food and ordinary articles. The profits of canteens should be utilised for the benefit of prisoners.⁵

Hygiene.

72. Belligerents should take all necessary hygienic measures to ensure the cleanliness and salubrity of camps and to prevent epidemics. Prisoners should have for their use, day and night, conveniences which conform to the rules of hygiene and are in a constant state of cleanliness. They should be provided with sufficient water for their bodily cleanliness and, if possible, with baths and shower-baths in the camps. They should have facilities for engaging in physical exercises and obtaining the benefit of being out of doors.⁶

Medical
Treatment.

73. Each camp should possess an infirmary, where prisoners can receive any attention which they may need. If necessary, isolation establishments should be reserved for patients suffering from infectious and contagious diseases. The expenses of treatment, including the provision of temporary remedial apparatus, should be borne by the detaining power. Belligerents should issue on demand to any prisoner treated, an official statement indicating the nature and duration of his illness and of any treatment received. Doctors and medical orderlies may be retained, by special arrangements between belligerents, to care for their prisoner compatriots.

¹ Prisoners of War Convention, art. 10.

² In the war of 1914-18 a special scale of rations was approved for enemy prisoners of war in British hands, which was different from that issued to our troops. This was varied from time to time according to circumstances. Additions to the normal scale were authorised for prisoners engaged on hard work.

³ In the Russo-Japanese war the ration of the Japanese soldier was found insufficient and unsuitable for the Russian prisoners. They were allowed nearly double the regulation scale, and as soon as possible were fed after their own fashion. (Ariga, 1908, p. 113.) The ration prescribed by the Convention refers to prisoners who have been removed from the fighting zone to premises as described in para. 68. While still in the fighting zone the ration of prisoners should be in all respects equivalent to that of their guards.

⁴ Prisoners of War Convention, art. 11.

⁵ Prisoners of War Convention, art. 12.

⁶ Prisoners of War Convention, art. 13.

Prisoners who have contracted a serious malady, or who need important surgical treatment, should be admitted, at the expense of the detaining power, to any military or civil institution qualified to treat them.¹ Ch. XIV

Medical inspections of prisoners should be arranged at least once a month, in order to supervise the general state of health and cleanliness, and to detect infectious and contagious diseases, particularly tuberculosis and venereal complaints.²

74. Prisoners shall be permitted complete freedom in the performance of their religious duties, including attendance at the services of their faith, provided they comply with the routine and police regulations prescribed by the military authorities. Moral and intellectual needs of prisoners.

Ministers of religion, who are prisoners of war, whatever may be their denomination, shall be allowed freely to minister to their co-religionists.³ It has already been stated that military chaplains cannot be made prisoners of war so long as they have confined themselves to their spiritual duties, but they should be permitted to accompany prisoners of war into captivity if they desire to do so.⁴

Belligerents shall encourage as much as possible the organization of intellectual and sporting pursuits by prisoners of war.⁵

75. Each prisoners-of-war camp shall be under the authority of a responsible officer. In addition to external marks of respect required by regulation with regard to their own nationals, prisoners shall salute all officers of the detaining power. Officer prisoners shall salute officers of that power who are their superiors or equals in rank.⁶ Internal discipline of camps.

The wearing of badges of rank and decorations shall be permitted.⁷

Regulations, orders, announcements, questions and publications of any kind shall be communicated to prisoners in a language which they understand.⁸

76. At the beginning of hostilities, belligerents shall inform each other of the titles and ranks in use in their armed forces, with a view to ensuring equal treatment between corresponding ranks of officers and persons of equivalent status, who shall be treated with due regard to their rank and age.⁹ Officers and persons of equivalent status.

Sufficient soldier prisoners of war of the same armed forces, and as far as possible speaking the same language, shall be detached for service in officers' camps.

Officers and persons of equivalent status should procure their food and clothing from the pay given them by the detaining power. The management of a mess by officers themselves should be facilitated in every way.¹⁰

¹ Prisoners of War Convention, art. 14. "Temporary remedial apparatus" includes crutches, artificial limbs, etc.

² Prisoners of War Convention, art. 15.

³ Prisoners of War Convention, art. 16.

⁴ See para. 58a above.

⁵ Prisoners of War Convention, art. 17.

⁶ Prisoners of War Convention, art. 18. By K.R. 1928, 180, the ordinary relations of superior and subordinate legally remain unaltered in the British service, when officers, warrant officers, N.C.Os. or men become prisoners of war.

⁷ Prisoners of War Convention, art. 19.

⁸ Prisoners of War Convention, art. 20.

⁹ Prisoners of War Convention, art. 21.

¹⁰ Prisoners of War Convention, art. 22.

Ch. XIV

Pecuniary
resources of
prisoners.

77. Special instructions will be issued to all concerned as occasion arises regarding the pay to be given to officers and persons of equivalent status who are prisoners.¹

78. At the beginning of hostilities, belligerents should determine by mutual accord the maximum amount of cash which prisoners of various ranks may be allowed to retain in their possession. Any excess withdrawn or withheld from a prisoner and any deposit effected by a prisoner should be carried to his account, and may not be converted into another currency without his consent. Credit balances should be paid to prisoners at the end of their captivity. Facilities should be accorded to prisoners during captivity to transfer credits to banks or private individuals in their country of origin.²

There is no obligation to pay the rank and file, but special provisions are made as regards working pay.³

Transfer of
prisoners.

79. Sick and wounded prisoners shall not be transferred if their recovery might be prejudiced by the journey unless the course of military operations demands it.⁴

In the event of transfer, prisoners shall be officially informed beforehand of their new destination; they shall be authorized to take with them their personal effects, correspondence and parcels. Correspondence and parcels addressed to their former camps shall be sent on to them without delay. Sums credited to the account of transferred prisoners should be transferred to the authorities of the new place of detention.

Expenses incurred by transfers shall be borne by the detaining power.⁵

Work of
prisoners.

80. Belligerents may employ as workmen prisoners of war who are physically fit, other than officers or persons of equivalent status, according to their rank and capacity. But if officers or persons of equivalent status ask for suitable work, this shall be found for them as far as possible. Non-commissioned officers can only be compelled to undertake supervisory work,⁶ but if they expressly ask for remunerative work, they may be given it.

81. Special instructions will be issued to all concerned as occasion arises regarding the treatment to be accorded to prisoners who are the victims of accidents.⁷

¹ See Prisoners of War Convention, art. 23, for the principles on which pay will be given. In the war of 1914-18, the German Government issued to British officer prisoners of war £3 a month for lieutenants and £5 a month for other officers, out of which they were required to pay for food and clothing. The British Government issued to German prisoners of war 4s. a day for lieutenants and 4s. 6d. a day for other officers (these sums bore the same ratio to German full infantry rates as the sums issued by German Government bore to British infantry rates of pay). They were charged for food and clothing. This arrangement was extended to other enemy countries. The British Government were willing at first to issue full pay to enemy prisoners if full pay was issued to our own officers in enemy hands, and this was subsequently agreed in principle by the other Governments. The difficulty of arranging satisfactorily for remittances to dependants at home prevented the adoption of the issue of full pay by the detaining Government and the earlier arrangement became permanent for the period of the war.

² Prisoners of War Convention, art. 24.

³ Prisoners of War Convention, art. 34, and para. 85 below. In 1870-1 the German rank and file prisoners in France received food and 7 centimes a day; the French rank and file prisoners in Germany received no pay. During 1914-18 British rank and file prisoners of war in Germany and German rank and file prisoners of war in England received no pay, except working pay when employed.

⁴ Prisoners of War Convention, art. 25.

⁵ Prisoners of War Convention, art. 26.

⁶ It is undesirable to employ officers for this purpose, since if placed in charge of men they might feel bound to make at least an attempt to overpower the guard.

⁷ See note 8 to para. 85.

82. The detaining power should assume entire responsibility for the maintenance, care, treatment, and the payment of wages of prisoners working for private individuals.¹ No prisoner may be employed on work for which he is physically unsuited.²

Ch. XIV
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Organization
of work.

The duration of the daily work of prisoners, including the time of the journey to and from work, should not be excessive and should in no case exceed that permitted for civil workers in the same locality. Each prisoner should be allowed a rest of twenty-four consecutive hours each week, preferably on Sunday.³

83. Work done by prisoners shall have no direct connection with the operations of war.⁴ In particular, it is forbidden to employ prisoners in the manufacture or transport of arms or munitions of any kind, or on the transport of material destined for combatant units. In the event of violation of this provision, prisoners are at liberty, after performing or commencing to perform the order, to have their complaints presented through the intermediary of the prisoners' representatives (see para. 93), or in the absence of a prisoners' representative, through the intermediary of the representatives of the protecting power.⁵

Prohibited
work.

It is forbidden to employ prisoners on unhealthy or dangerous work. Conditions of work shall not be rendered more arduous by disciplinary measures.⁶

84. Conditions governing labour detachments shall be similar to those of prisoners of war camps, particularly as concerns hygienic conditions, food, care in case of accidents or sickness, correspondence and the reception of parcels. Every labour detachment shall be attached to a prisoners' of war camp, whose commandant is to be responsible for the observance of all the provisions of the Prisoners of War Convention as regards his labour detachments.⁷

Labour
detach-
ments.

85. Special instructions will be issued to all concerned as occasion arises regarding the working pay of prisoners of war.⁸

Working
pay.

86. At the beginning of hostilities, belligerents shall publish the measures prescribed for the relations of prisoners with the exterior.⁹ They will inform each other of the official addresses to which letters from prisoners' families may be addressed to the prisoners of war. As soon as possible after capture every prisoner shall be enabled to correspond personally with his family.¹⁰

Relations of
prisoners
with the
exterior.

86a. Each belligerent shall fix periodically the number of letters and postcards which prisoners of different categories may

¹ Prisoners of War Convention, art. 28. In Germany, in 1870-1, prisoners of war were permitted to work in factories and on the land. In most wars prisoners have been allowed to make models, souvenirs, and other articles, one or more prisoners being permitted to act as agents for their sale.

² Prisoners of War Convention, art. 29.

³ Prisoners of War Convention, art. 30.

⁴ Thus the use made by Germany of prisoners of war in digging trenches even on payment or with the alleged consent of the prisoners during the Great War, 1914-18, was illegal.

⁵ Prisoners of War Convention, art. 31.

⁶ Prisoners of War Convention, art. 32.

⁷ Prisoners of War Convention, art. 33.

⁸ In the war of 1914-18, enemy prisoners of war in Great Britain were paid British soldiers' rates of working pay when employed on working parties, whether for the Government or for civilian employers. In the latter case the employer was charged the local market rate for similar labour. Prisoners injured through accidents at work were not compensated by the British Government.

⁹ Prisoners of War Convention, art. 35.

¹⁰ Prisoners of War Convention, art. 8.

Ch. XIV send a month, and notify that number to the other belligerent. Correspondence shall be sent by post by the shortest route, and may not be delayed or withheld for disciplinary motives.

Not later than one week after his arrival in camp, and similarly in case of sickness, each prisoner shall be enabled to send a postcard to his family informing them of his capture and the state of his health. As a general rule the correspondence of prisoners shall be written in their own language.¹

Parcels.

87. Prisoners may receive postal parcels containing foodstuffs, other articles for consumption, and clothing. Parcels shall be delivered to the addressees and a receipt given.²

The carriage of correspondence and parcels.

88. Letters, remittances of money or valuables, and postal parcels addressed to, or despatched by, prisoners of war, shall be exempt from all postal charges in the countries of origin and destination and in the countries through which they pass. Presents and relief in kind shall be exempt from all import or other duties as well as charges for carriage on railways operated by the state. Prisoners may, in cases of urgency, be authorized to send telegrams on payment of the usual charges.³

Books.

89. Prisoners may receive books, which may be subject to censorship. Representatives of the protecting powers and of duly authorized relief societies may send books to the libraries of prisoners' camps. These may not be delayed under pretext of difficulties of censorship.⁴

Examination of correspondence and parcels.

90. The censoring of correspondence must be done as quickly as possible. In the case of postal parcels delayed for examination steps shall be taken to ensure the preservation of any foodstuffs they may contain, and if possible the examination shall take place in the presence of the addressee or his representative. Any prohibition of correspondence for military or political reasons shall be for as brief a time as possible.⁵

Transmission of documents.

91. Belligerents shall accord all facilities for transmitting documents destined for prisoners or signed by them, particularly powers of attorney and wills. They shall arrange to secure, in case of need, the legalisation of signatures of prisoners.⁶

Complaints as to conditions of captivity.

92. Prisoners shall have the right to bring to the notice of the military authorities petitions concerning the conditions of their captivity, and to communicate with the representatives of the protecting powers about the points on which they have complaints to make.

Such petitions shall be transmitted immediately; even though they are found to be groundless, they shall not give rise to any punishment.⁷

Representatives of prisoners of war.

93. In any locality where there are prisoners of war, they shall be authorized to appoint representatives to represent them before the military authorities and the protecting powers. Such appointments shall be subject to the approval of the military authorities.

¹ Prisoners of War Convention, art. 36.

² Prisoners of War Convention, art. 37.

³ Prisoners of War Convention, art. 38.

⁴ Prisoners of War Convention, art. 39.

⁵ Prisoners of War Convention, art. 40.

⁶ Prisoners of War Convention, art. 41.

⁷ Prisoners of War Convention, art. 42.

The prisoners' representatives shall be charged with the reception and distribution of collective consignments, the organization of social and recreational amenities for prisoners, and may be employed to facilitate relations with the relief societies mentioned in para. 116 below. Ch. XIV
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93a. In camps of officers and persons of equivalent status the senior officer prisoner of the highest rank shall be the intermediary between the camp authorities and the prisoners. He may appoint an officer prisoner to assist him as interpreter.¹

93b. When the prisoners' representatives are employed as workmen, their working time as representatives of the prisoners must be reckoned as part of the compulsory period of labour. All facilities shall be given them for unlimited correspondence with the military authorities and the protecting power. No representative may be transferred without allowing him time to acquaint his successors with the current business.²

94. Prisoners of war shall be subject to the laws, regulations and orders in force in the armed forces of the detaining power.³ Penal sanctions.

They shall not be subjected to penalties or treatment other or less favourable than those prescribed for similar acts by members of the national forces. Corporal punishment, confinement in premises unlighted by daylight, and all forms of cruelty whatsoever are prohibited. Collective penalties for individual acts are also prohibited.⁴ General provisions.

95. A statement of the facts in cases of acts constituting a breach of discipline, and particularly an attempt to escape, shall be drawn up in writing without delay. The period during which prisoners are detained in custody (pending the investigation of offences) shall be reduced to a minimum. Judicial proceedings shall be conducted as quickly as possible. The period during which a prisoner is under arrest (awaiting punishment or trial) shall be deducted from the sentence, whether disciplinary or judicial, if such deduction is permitted in the case of members of the national forces.⁵

96. After undergoing judicial or disciplinary punishment prisoners shall not be treated differently from other prisoners. Prisoners who have been punished for attempting to escape may be subjected to a special regime of surveillance, but this shall not involve the suppression of any of the safeguards accorded to prisoners under the Convention.⁶ Illegal penalties.

96a. No prisoner may be deprived of his rank by the detaining power. Prisoners on whom disciplinary punishment is inflicted shall not be deprived of the privileges attaching to their rank. In particular, officers and persons of equivalent status who suffer penalties entailing deprivation of liberty shall not be placed in

¹ Prisoners of War Convention, art. 43.

² Prisoners of War Convention, art. 44.

³ Prisoners of War Convention, art. 45. Note the term "Armed Forces." This means, for example, that naval and air force prisoners are subject to the provisions of the legislation applicable to those forces of the detaining power. In general, all army prisoners and prisoners classified as of "equivalent status" to that of an officer, will be subject to the legislation applicable to the Army of the detaining power, unless they have been expressly classified as of equivalent status to that of a naval or air force officer.

⁴ Prisoners of War Convention, art. 46.

⁵ Prisoners of War Convention, art. 47.

⁶ Prisoners of War Convention, art. 48.

Ch. XIV the same premises as non-commissioned officers or private soldiers undergoing punishment.¹

Escape of prisoners.

97. Escaped prisoners of war who are re-captured shall be liable only to disciplinary punishment. Prisoners who, after succeeding in rejoining their armed forces or in leaving the territory occupied by the armed forces which captured them, are again taken prisoner are not liable to any punishment for their previous escape.²

97a. Prisoners of war who escape into neutral territory regain their liberty. If the neutral power allows them to remain in its territory it may assign them a place of residence. The same rule applies to prisoners of war brought by troops taking refuge in the territory of a neutral power.³

98. Attempted escape, even if it is not a first offence, shall not be considered as an aggravation of the offence if a prisoner is brought before the courts for crimes or offences against persons or property committed in the course of such attempt. After an attempted or successful escape the comrades of the escaped person who aided the escape shall incur only disciplinary punishment therefor.⁴

99. Belligerents shall ensure that the competent authorities exercise the greatest leniency in considering whether an offence committed by a prisoner should be punished by disciplinary or by judicial measures. This particularly applies to escape or attempted escape.

A prisoner shall not be punished more than once for the same act or on the same charge.⁵

Repatriation of sentenced prisoners.

100. No prisoner who has been awarded any disciplinary punishment for an offence and who fulfils the conditions laid down for repatriation shall be retained on the ground that he has not undergone his punishment.

Prisoners qualified for repatriation against whom any prosecution for a criminal offence has been brought may be excluded from repatriation until the end of the proceedings and fulfilment of their sentence, if any; prisoners already serving a sentence of imprisonment for a criminal offence may be retained until the expiry of the sentence. Belligerents shall communicate to each other lists of those who cannot be repatriated on these grounds.⁶

Disciplinary punishments.

101. Imprisonment is the most severe disciplinary punishment which may be inflicted on a prisoner.⁷ The duration of any single

¹ Prisoners of War Convention, art. 49.

² Prisoners of War Convention, art. 50.

³ Neutrality Convention, art. 13 (App. 7).

⁴ Prisoners of War Convention, art. 51. In the Franco-German War, 1870-1, the French officers who were prisoners of war were at first permitted to retain their arms and to have considerable liberty of movement on condition of not leaving the locality assigned as their place of residence. The Prussian Government, alleging the frequency of escapes, did not continue these indulgences, and exhibited a severity in the surveillance of French officers of which the following order of General Vogel von Falkenstein is a specimen:—"On each occasion that a French prisoner escapes, ten of his comrades with whom he was living will be chosen by lot and will be closely confined in a fortress and deprived of all the privileges granted to an officer prisoner of war". (Kriegsbrauch, 1902, p. 14.) Such measures would not be permissible under the Prisoners of War Convention, 1929.

⁵ Prisoners of War Convention, art. 52.

⁶ Prisoners of War Convention, arts. 53 and 75. After the Franco-German War in 1871, Germany retained such prisoners, whereas Japan, after the Russo-Japanese War in 1905, released them. Under art. 218 of the Treaty of Versailles, 1919, such prisoners were to be repatriated, except in the cases of offences committed subsequent to 1st May, 1919.

⁷ For criminal or other than disciplinary offences, prisoners of war are liable to the same punishments as members of the armed forces of the detaining power, see arts. 45 and 63, Prisoners of War Convention, and para. 94 above.

punishment shall not exceed thirty days, and this period, moreover, shall not be exceeded even if there are several acts for which the prisoner is answerable to discipline when his case is disposed of, whether such acts are connected or not. Ch. XIV
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Imprisonment.

Where a prisoner is sentenced to a fresh disciplinary penalty, a period of at least three days shall intervene between each of the periods of punishment, if one of the periods is of ten days or over.¹

102. Subject to the prohibition on collective disciplinary measures affecting food (see para. 69 above), restrictions in regard to food permitted in the armed forces of the detaining power may be applied, as an additional penalty, to a prisoner undergoing disciplinary punishment, if his state of health permits it.² Restrictions regarding food.

103. In no case shall prisoners be transferred to prisons or convict establishments in order to undergo a disciplinary sentence there. Conditions during imprisonment.

Establishments in which disciplinary sentences are undergone shall conform to the requirements of hygiene. Facilities shall be afforded to prisoners undergoing sentence to keep themselves clean, and to take exercise out of doors daily for at least two hours.³

They shall be permitted to read and write and to send and receive letters; but it shall be permissible not to deliver parcels and remittances of money to the addressees until the expiration of the sentence. If the undelivered parcels contain perishable foodstuffs, these shall be handed over to the infirmary or to the camp kitchen.⁴

103a. Prisoners undergoing disciplinary punishment shall be permitted to present themselves for daily medical inspection. If need be, they shall be evacuated to the camp infirmary or to hospital.⁵ Medical treatment of prisoners undergoing punishment.

104. Without prejudice to the competency of the courts and the superior military authorities, disciplinary sentences may only be awarded by the commandant of a camp or detachment, or by the responsible officer acting as his substitute.⁶ Authorities who can award sentences.

105. At the beginning of judicial proceedings against a prisoner, the detaining power shall notify the representative of the protecting power as soon as possible and at any rate before the date fixed for the opening of the hearing. This notification shall contain full particulars of the case. The description and location of the court which will try the case, and the date of opening the hearing, shall be communicated to the representative of the protecting power not less than three weeks before the opening of the hearing.⁷ Judicial proceedings.

105a. No prisoner shall be sentenced without being given the opportunity to defend himself, nor shall he be compelled to plead guilty.⁸

106. The prisoner shall have the right to be assisted by a qualified advocate of his own choice, and to have recourse to the offices of a competent interpreter. He should be informed of his

¹ Prisoners of War Convention, art. 54. In practice, this means that three days liberty has not been earned between sentences unless the prisoner has already been confined for ten days or more. The object is to prevent indefinite continuous imprisonment, even if the prisoner is insubordinate while undergoing sentence.

² Prisoners of War Convention, art. 55.

³ Prisoners of War Convention, art. 56.

⁴ Prisoners of War Convention, art. 57.

⁵ Prisoners of War Convention, art. 58.

⁶ Prisoners of War Convention, art. 59.

⁷ Prisoners of War Convention, art. 60.

⁸ Prisoners of War Convention, art. 61.

Ch. XIV right in good time before the hearing. The representatives of the protecting power shall have the right to attend the hearing of the case, except where it has to be kept secret in the interests of the safety of the state. In the latter case the detaining power shall notify the protecting power accordingly.¹

107. A sentence shall only be pronounced on a prisoner by the same tribunals and in accordance with the same procedure as in the case of persons belonging to the armed forces of the detaining power.²

107a. Every prisoner shall have the right of appeal against any sentence in the same manner as persons belonging to the armed forces of the detaining power.³

107b. Sentences pronounced against prisoners shall be communicated at once to the protecting power.⁴

Execution
of
prisoners.

108. If sentence of death is passed on a prisoner, a communication setting forth in detail the facts of the case shall be addressed as soon as possible to the protecting power for transmission to the power in whose armed forces the prisoner served. Sentence shall not be carried out before the expiration of a period of at least three months from the date of the receipt of the communication by the protecting power.⁵

108a. Prisoners of war may be fired upon if they offer violence to their guard or to any of the captor's forces or officials, or if they attempt to give active assistance to their own forces,⁶ or if they attempt to escape; but a previous summons to desist and to surrender should be given if possible.

109. A commander may not put his prisoners to death because their presence retards his movements or diminishes his power of resistance by necessitating a large guard, or by reason of their consuming supplies, or because it appears certain that they will regain their liberty through impending success of their forces. Whether nowadays such extreme necessity can ever arise as will compel a commander on grounds of self preservation to kill his prisoners may well be doubted.⁷

Parole.

110. Prisoners of war may be set at liberty on parole if the laws of their country allow it.⁸ In such cases they are bound, on their personal honour, scrupulously to fulfil, both as regards their own government and the enemy government, the engagements they may have contracted, and their own government is bound neither to require of nor accept from them any service incompatible with the parole given.

¹ Prisoners of War Convention, art. 62. The detaining Power, if requested by the protecting Power, must supply a list of advocates qualified to defend the prisoner.

² Prisoners of War Convention, art. 63.

³ Prisoners of War Convention, art. 64.

⁴ Prisoners of War Convention, art. 65.

⁵ Prisoners of War Convention, art. 66.

⁶ This does not imply that prisoners may be fired upon for attempting to assist their own forces by a breach of any censorship or counter-espionage regulations, or similar acts.

⁷ The American Instructions, 1863, art. 60, read:—"In great straits when his own salvation makes it impossible toumber himself with prisoners." The German Kriegsbuch, 1902, says:—"Prisoners can be killed . . . in case of extreme necessity when other means of security are not available and the presence of the prisoners is a danger to one's own existence. . . . Exigencies of war and the safety of the State come first and not the consideration that prisoners of war must at any cost remain unmolested."

The last authenticated case of the killing of prisoners in cold blood occurred in 1799, at Jeddah, when 3,563 Arabs were shot down or bayoneted on the sea shore by order of Napoleon.

⁸ Hague Rules, 10. As regards the paroling of officers interned in a neutral country, see para. 488.

110a. Some doubt exists whether the engagement of a prisoner of war simply released on parole extends to active service only, or whether indirect services are forbidden.

110b. It is therefore advisable that the form of parole should state definitely the conditions under which the prisoner is released. For instance, whether he is only bound not to take part directly with arms during the present war; or whether he is not permitted to accept any appointment in his own country or in the colonies, which may give direct or indirect assistance; or whether all and every performance of duty is forbidden. The indirect assistance which could be rendered, if not forbidden, might include the manufacture of munitions, office work, work upon fortifications of places not besieged, raising or instructing recruits, fighting enemies who are not allies of the belligerent to whom he has given his parole, repressing civil insurrections, or carrying out civil or diplomatic functions.

110c. The parole should be in writing, and be signed by the prisoner.¹

110d. A prisoner of war cannot be compelled to accept his liberty on parole, nor is a hostile government compelled to accede to the request of a prisoner to be set at liberty on parole.²

110e. Prisoners of war liberated on parole and recaptured bearing arms against the government to which they pledged their honour or against allies of that government forfeit their right to be treated as prisoners of war, and may be tried for the offence.³

110f. The exchange of prisoners (as distinct from the repatriation of certain classes of prisoners, which is provided for in paras. 111 and 111a) has become unusual. The rule generally observed is to exchange man for man and rank for rank, with due allowance if denominations differ or there is no exact equivalent. A condition is often made that the men exchanged shall not participate as soldiers in the present war—in fact they are paroled.

110g. The exchange of prisoners may be carried out by means of so-called "cartels."⁴ There are no other requirements than a simple statement agreed to by the commanders, such agreement being arrived at by *parlementaires* or the exchange of letters. But for exchanges on a large scale commissioners are usually appointed,⁵ and commanders ought not as a rule in such cases to act without having previously reported to their government. In modern war

¹ The formula used by the Japanese at the surrender of Port Arthur was written at the beginning of a book which such prisoners as accepted parole signed. It ran: "The undersigned declares under oath that he will not take up arms again against Japan, and will not act in any way inimical to the interests of that country until the end of the present War." (Ariga, 1908, p. 115.) See also para. 112c below.

Generally a duplicate list of persons paroled is made out and a copy sent to the enemy army. According to the British practice, a soldier cannot give his parole except through a commissioned officer.

² Hague Rules, 11.

³ Hague Rules, 12. According to the French Code (Justice Militaire, art. 204) "est pun de mort, tout prisonnier de guerre qui, ayant fausse sa parole, est repris les armes à la main."

⁴ See para. 338 below.

⁵ This was the practice usually followed in the Napoleonic Wars and in the American Civil War. In the Crimean War exchanges were discussed and arranged through the intermediary of a neutral State.

Ch. XIV

Direct
repatriation
and accom-
modation in
a neutral
country.

Mixed
medical
commission.

between civilized states, an exchange of prisoners will rarely be carried out except by agreement between governments concerned.

111. Belligerents shall be required to send back to their own country, without regard to rank or numbers, after rendering them in a fit condition for transport, prisoners of war who are seriously ill or seriously wounded.

111a. Agreements between the belligerents shall therefore determine, as soon as possible, the forms of disablement or sickness requiring direct repatriation and cases which may necessitate accommodation in a neutral country.¹ Pending the conclusion of such agreements, the belligerents may refer to the model draft agreement annexed to the Prisoners of War Convention.²

111b. At the opening of hostilities, belligerents shall come to an understanding about the appointment of mixed medical commissions. These shall consist of three members, two belonging to a neutral country and one to the detaining power; one of the neutral medical officers shall preside. These commissions shall proceed to the examination of sick or wounded prisoners and make appropriate decisions regarding them. Effect shall be given to these decisions as soon as possible.³

The following prisoners of war shall be inspected by the mixed medical commission :—

- (a) Those selected by the medical officer of the camp.
- (b) Those who make a direct request to that effect to the medical officer of the camp.
- (c) Those presented by the prisoners' representatives.
- (d) Those nominated by the power they served or by a relief society nominated by that power.⁴

112. Prisoners of war who meet with accidents at work, unless the injury is self-inflicted, shall have the benefit of the provisions as regards repatriation or accommodation in a neutral country.⁵

112a. Arrangements may be concluded for the direct repatriation or accommodation in a neutral country of prisoners in good health who have been in captivity for a long time.⁶

112b. Expenses of repatriation to a neutral country shall be borne, as from the frontier of the detaining power, by the power such prisoners served.⁷

112c. No repatriated person shall be employed on active military service.⁸

¹ During the Great War, 1914-1918, agreements were arrived at between the Allies and Germany early in 1918, whereby all wounded prisoners of war held by their respective Governments, as well as prisoners suffering from any one of twenty specified diseases or infirmities, were to be transferred to Switzerland. Later agreements were arrived at whereby prisoners who had been in captivity not less than eighteen months and who fulfilled certain conditions as regards age and citizenship were to be repatriated or interned in a neutral country. Some 16,000 British and German prisoners were interned in Holland. In March, 1918, it was stated that 26,000 prisoners of the several belligerents were being cared for in Switzerland. Of these, 16,000 were English, French and Belgian, while 10,000 were German; besides these, some 500,000 invalid and sick prisoners of various nationalities had been exchanged and repatriated through Switzerland since the beginning of the War. In June, 1918, an agreement for the repatriation of prisoners of war on a large scale was concluded between Lord Cave's mission and a German military mission.

² Prisoners of War Convention, art. 68.

³ Prisoners of War Convention, art. 69.

⁴ Prisoners of War Convention, art. 70.

⁵ Prisoners of War Convention, art. 71.

⁶ Prisoners of War Convention, art. 72.

⁷ Prisoners of War Convention, art. 73.

⁸ Prisoners of War Convention, art. 74.

113. Provisions concerning the repatriation of prisoners are normally included in an Armistice Convention. If not, the belligerents shall enter into communication on the question as soon as possible. In any case, the repatriation of prisoners shall (subject to the provisions of para. 100) be effected as soon as possible after the conclusion of peace. Ch. XIV
—
Liberation at end of hostilities.

By agreement between the belligerents, commissions may be instituted for the purpose of searching for scattered prisoners and ensuring their repatriation.¹

114. The wills of prisoners shall be received and drawn up, their certificates of death prepared, their burials carried out, and their graves maintained in the same way as for soldiers of the detaining power.² Wills and deaths.

115. At the beginning of hostilities, each of the belligerent powers and the neutral powers who have belligerents in their care, shall institute an official bureau to give information about prisoners in their territory. Prisoners' information bureau.

A belligerent shall inform its information bureau as soon as possible about all prisoners captured, giving particulars of identity and official addresses so that their families can be quickly notified. The bureau shall transmit all such information immediately to the powers concerned on the one hand through the intermediary of the protecting powers, and on the other through the central agency described in para. 116a below.

115a. The information bureau, being charged with replying to all enquiries about prisoners of war, shall receive from the various services concerned all particulars about internments, transfers, releases on parole, repatriations, escapes, stays in hospital and deaths, together with all other particulars necessary for keeping up to date an individual record of each prisoner.

115b. Subject to restrictions on replies to interrogations (see para. 60 above), this record must give, as far as possible, the regimental number, names and surnames, date and place of birth, rank and unit,³ of the prisoner, the surname of the father and name of the mother, the address of the person to be notified in case of accident, wounds, dates and places of capture,⁴ of internment, of wounds, of death, together with all other important particulars.

115c. Weekly lists containing all additional particulars capable of facilitating identifications shall be transmitted to the interested powers. The individual record of a prisoner must be sent after the conclusion of peace to the power in whose service he was.

115d. The information bureau shall also collect all personal effects, valuables, correspondence, pay-books, identity tokens, etc., left by prisoners who have been repatriated or released on parole, or who have escaped or died, and transmit them to the countries concerned.⁵

116. Legally constituted charitable societies, formed for the purpose of assisting prisoners of war, shall be given facilities for Prisoners relief societies.

¹ Prisoners of War Convention, art. 75.

² Prisoners of War Convention, art. 78.

³ British prisoners are forbidden to reply to questions as to their unit, or to give any further information that may prejudice the success of the operations of their armies. (F.S.R., Vol. II, 1929, sec. 34.)

⁴ Prisoners of War Convention, art. 77.

Ch. XIV carrying out their task, provided military exigencies and administrative regulations permit. The representatives of the societies need not, however, be given access to the places of internment of prisoners, or the halting places of prisoners who are being repatriated, unless they are in possession of a personal permit furnished to them by the military authorities, and have given an undertaking in writing to comply with all routine and police orders which may be issued.¹

Central
information
agency.

116a. A central agency of information regarding prisoners of war shall be established in a neutral country. This agency shall be charged with the duty of collecting all information about prisoners through official or private channels and the agency shall transmit the information as rapidly as possible to the power in whose service they have been.² The International Red Cross Committee has intimated its intention to propose the organization of such an agency.

116b. Information bureaux shall enjoy exemptions from fees on postal matter as well as the exemptions mentioned in para. 88 above.³

116c. Parties to the Prisoners of War Convention reserve the right to conclude further special conventions on all questions relating to prisoners of war, and on all questions concerning which they may consider it desirable to make special provision.⁴

116d. The text of the Convention and of any special Convention should be posted, whenever possible, in the native language of the prisoner of war, in places where it may be consulted by all such prisoners.⁵

116e. The accredited representatives of the protecting power shall be allowed to proceed to any place without exception in order to converse with prisoners of war. As a general rule, such conversations may be held without witnesses, but the military authorities concerned shall be informed of such intended visits.⁶

(i) c.—*Bombardments, Assaults, and Sieges.*⁷

Undefined
localities.

117. Investment, bombardment, assault and regular siege are severally and jointly legitimate means of warfare. Before the advent of aircraft and long range artillery, these means were limited to defended localities.

¹ Prisoners of War Convention, art. 78.

² Prisoners of War Convention, art. 79.

³ Prisoners of War Convention, art. 80.

⁴ Prisoners of War Convention, art. 83.

⁵ Prisoners of War Convention, art. 84.

⁶ Prisoners of War Convention, art. 85.

⁷ It must be noted particularly that bombardment and assault on the battlefield are not dealt with here, as they are allowed in the same circumstances, and under the same conditions, as force in general.

A place is said to be blockaded when communication by water is cut off, and ingress and egress rendered dangerous by the presence of blockading warships. A definition of blockade will be found in Oppenheim, *International Law*, Vol. II, 1912, Ch. III, p. 450. Being a naval operation, it is not necessary further to allude to it in this work.

118. It is not sufficient reason for bombardment that a town contains supplies of value to the enemy, or railway establishments, telegraphs, or bridges.¹ These must, if it is necessary to do so, be destroyed by other means. Ch. XIV
—

119. The defended locality need not be fortified, and it may be deemed defended if a military force is in occupation of or marching through it.² Defended localities.

120. A fortress or other fortified place is *prima facie* considered to be defended, and may be bombarded unless there are visible signs of surrender.³

121. Once a fortress or defended locality has surrendered, only such further damage is permitted as is demanded by the exigencies of war, such as the removal of the fortifications, the demolition of military buildings, destruction of stores, and measures for clearing the foreground. It is not permissible to burn public buildings or private houses in such a place simply because it has been defended.

122. No legal duty exists for the attacking force to limit bombardment to the fortifications or defended border only. On the contrary, destruction of private and public buildings by bombardment has always been, and still is, considered lawful, as it is one of the means to impress upon the local authorities the advisability of surrender.

123. A town which is defended by detached forts, though they are at a distance from it, is liable to bombardment, for the town and forts form an indivisible whole.⁴ The town may, perhaps, contain workshops and provide supplies which are invaluable to the defence, and may serve to shelter a portion of its garrison when not on duty.

124. If military exigencies permit, the commander of an attacking force must do all in his power to warn the authorities before commencing a bombardment, unless surprise is considered to be an essential element of success. There is, however, no obligation to give notice of an intended assault.⁵ Notice of bombardment.

125. There is no rule which compels the commander of an investing force to allow all non-combatants, or even women, children, aged, sick and wounded, or subjects of neutral Powers, to leave the besieged locality. The fact that non-combatants are besieged together with combatants, and that they have to endure the same hardships, may and often does exercise pressure on the authorities to surrender. It is therefore left to the consideration of the besieging commander whether or not he will Exodus of non-combatants.

¹ Bombardment by naval forces in time of war is legislated for in a special Convention, which is referred to in footnotes where the provisions contained in it vary from the laws of war on land. A naval force may bombard an undefended place if the local authorities refuse, after summons, to comply with requisitions for supplies and provisions necessary for immediate use. (Convention respecting Bombardments by Naval Forces in time of War, art. 3.)

² In the Great War, 1914-1918, the increased depth of the battle area often made it difficult to discriminate between defended and undefended localities.

³ Thus it would have been legal to have bombarded Pretoria, in June, 1900, as it was provided with forts which showed no signs of surrender.

⁴ Some writers assert the contrary, though the general practice of belligerents is indicated in the text. There is, however, no doubt that a commander incurs no responsibility for any unavoidable damage caused by a bombardment.

⁵ Hague Rules, 26. Notice of the intended bombardment of Paris and La Fère, in 1870, was not given, but as a rule the besieged is given notice with a view to sparing the civil population.

Ch. XIV permit such individuals to leave.¹ A temporary resident is not entitled to different treatment from a permanent resident.

126. A diplomatic envoy of a neutral Power, on account of his personal immunity, should not be prevented from leaving; also this applies perhaps to a consular officer of a neutral Power. If he voluntarily chooses to remain, he must suffer the same treatment as other inhabitants. He cannot claim permission to leave whilst hostilities are in progress, but the besieging commander should allow his withdrawal as soon as and whenever the circumstances and conditions of the particular case allow it.²

127. All persons dwelling in the zone that will usually exist between the opposing forces in the first stages of a siege are treated as inhabitants of the invested locality. Humanity, however, makes it desirable that the commander of the besieging army should, if the circumstances and conditions of the case permit, allow them to withdraw into the fortress.³

128. Private individuals who attempt to leave the fortress without obtaining the necessary permission are liable to be fired on, and may be sent back into the besieged place, or detained and put on their trial as suspected persons.

129. Should the commander of a besieged place expel the non-combatants or any portion of them in order to lessen the number of those who consume his stores of provisions, it is lawful, although an extreme measure, to drive them back, so as to hasten the surrender.

130. It is not necessary to cease or relax fire because the enemy sends women and children out of his lines in order to get them to a place of safety, or to implore compassion, but fire must not be intentionally opened in their direction.

131. No person has the right to demand permission to enter a besieged locality. If a private individual attempts to enter he should be detained, and may be put on his trial as a suspected person.

Communication with invested locality.

132. The investing force has an absolute right to forbid all communication between a besieged locality and the outside. How far this rule applies to communications from diplomatic envoys to their home Governments is an open question. The commander concerned should report to, and ask instructions from, his Government.⁴

¹ In recent years—for instance, at Port Arthur—the offer to permit women, children (boys under 16), the aged, and subjects of neutral Powers to leave has sometimes been made. At Port Arthur the conditions the Japanese laid down were that a statement of the approximate numbers of such persons classified by categories should be furnished, that the persons should be brought to a certain place at a certain time, that each person should only have the right to bring one package of ordinary size, which should be liable to examination if judged necessary, and that this piece of baggage should not contain letters or documents relating directly to the war under penalty of confiscation, and that the conditions must be accepted or refused on the spot. (Ariga, 1906, p. 277.)

² For further examination of the position of diplomatic agents and consuls, see paras. 132, 603 and 604 below.

³ At the siege of Port Arthur the Japanese gave the inhabitants of this zone—neutral Chinese—three days notice to leave or to remain. (Ariga, 1906, p. 273.)

⁴ On the request of the diplomatic representatives of neutral States, who were shut up in Paris, that they might be permitted to send out a courier at least once a week, Count Bismarck replied in a despatch dated 27th September, 1870, as follows:—

“The authorisation of exchange of correspondence with a besieged fortress is not, in general, in accordance with the customs of war; and although we willingly authorise the transmission of open letters of the diplomatic agents, provided their contents are unobjectionable (*sans inconvénient*) from a military point of view, I cannot admit that the opinion of those who consider the interior of the fortifications of Paris as a suitable centre for diplomatic relations has a good foundation.” (Kriegsbrauch, 1902, p. 20.)

133. Although the bombardment of the private and public buildings of a defended town or fortress is lawful, all necessary steps must be taken to spare, as far as possible, buildings dedicated to public worship, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected.¹ Ch. XIV
—
Public buildings, hospitals, &c.

134. It is the duty of the besieged to indicate such buildings or places by distinctive and visible signs which must be notified to the enemy beforehand.²

135. To indicate military hospitals and other military medical establishments the emblem of a red cross on a white ground is authorised. As this emblem must not be used for any other purpose³ some other visible sign must be employed to indicate other privileged buildings.⁴

136. Edifices for which inviolability is thus claimed must not be used at the same time for military purposes, as, for instance, for officers and quarters, or for signalling stations or observation posts.⁵ If this condition is violated, the besieger is justified in, disregarding the sign.⁶

137. Accusations have frequently been made at sieges that the rule concerning the immunity of hospitals had been deliberately disregarded. The complaints were probably due to the fact that buildings used for medical purposes were scattered over a town, and that they were thus liable to be struck by chance or erratic shots. It is therefore desirable that the sick and wounded should, if possible, be concentrated in one and the same quarter, and in one remote from the defences and the defending troops, or, by arrangement with the besieger, in neutralized ground.⁷

138. The giving over to pillage of a town or place, even when taken by assault, is forbidden.⁸ Pillage.

(ii) *The Means of Carrying on War by Stratagem (Ruses).*

139. Ruses of war are the measures taken to obtain advantage of the enemy by mystifying or misleading him. They are permissible provided they are free from any suspicion of treachery or perfidy, and do not violate any expressed or understood agreement. Belligerent forces must constantly be on their guard against, and prepared for, legitimate ruses, but they should be able to rely on their adversary's good faith and his observance of the laws of war.⁹ Definition.

140. Good faith is essential in war, for without it hostilities could not be terminated with any degree of safety short of the total destruction of one of the contending parties. Good faith and perfidy.

¹ Hague Rules, 27. The introduction of long range artillery, aircraft, &c., makes it difficult to ensure immunity for such buildings, but they should not be bombarded deliberately.

² Hague Rules, 27. Signs visible by aircraft are specially important, and the nature of the signs adopted for this purpose should be notified to the enemy authorities.

³ Red Cross Convention, arts. 19-24. See para. 210, *et seq.*

⁴ The Convention respecting Bombardment by Naval Forces in time of War provides (in art. 5) that the sign shall consist of "large stiff rectangular panels divided diagonally into two painted triangular portions, the upper portion black, the lower portion white."

⁵ Hague Rules, 27.

⁶ Thus the bombardment of Strasburg Cathedral in 1870 is held to have been justified, because an artillery observation post was established on its tower.

⁷ As, for instance, at Intombi, during the siege of Ladysmith.

⁸ Hague Rules, 28.

⁹ Hague Rules, 24. This reads: "Ruses of war . . . are considered permissible." According to the debate which took place at the Conference, however, this article is not to be taken to imply that every ruse is permissible. A ruse ceases to be permissible if it contravenes any generally accepted rule. (Hague Conference, 1899, p. 146.)

Ch. XIV

141. Should it be found impossible to count on the loyalty of the adversary, there is grave danger of war degenerating into excesses and indiscriminate violence, to avoid which has been the aim of the modern laws of war.

142. The border line between legitimate ruses and forbidden treachery has varied in different ages, and military practice in the matter has frequently differed from the theories of writers. Many of the doubtful cases, however, which arose when troops, from the nature of their weapons, could only engage at close range, can now seldom or never occur.

Treachery.

143. It is expressly forbidden by the Hague Rules to kill or wound by treachery individuals belonging to the hostile nation or army.¹

Legitimate ruses.

144. Among legitimate ruses may be counted:—surprises; ambushes; feigning attacks, retreats or flights; simulating quiet and inactivity; giving large outposts or a strong advanced guard to a small force; constructing works, bridges, &c., which it is not intended to use; transmitting bogus signal and telegraph messages, and sending bogus despatches and newspapers with a view to their being intercepted by the enemy; lighting camp fires where there are no troops; making use of the enemy's signals, bugle and trumpet calls, watchwords and words of command; pretending to communicate with troops or reinforcements which have no existence; moving landmarks; putting up dummy guns or laying dummy mines; removing badges from uniforms; clothing the men of a single unit in the uniform of several different units, so that prisoners and dead may give the idea of a large force.

145. It is not illegitimate to employ spies,² or even to corrupt enemy civilians or soldiers by bribes in order to induce them to give information, to desert, to surrender, to rebel, or to mutiny, or to give false information to the enemy; for a belligerent state can take measures to secure itself against such offences.³

Improper ruses.

146. It would be contrary to modern practice to attempt to obtain advantage of the enemy by deliberate lying when there is a moral obligation to speak the truth; for instance, by declaring that an armistice had been agreed on when such was not the case. But, to give another instance, it would not be illegitimate for a few men to summon a force to surrender on the ground that it was surrounded, or to threaten bombardment although no guns have actually arrived.

147. Prisoners of war should not volunteer false statements. Should they, however, be plied with questions which, if answered correctly, might injure their army, they would be justified in deceiving the interrogator, and could not be punished for so doing.⁴

148. To demand a suspension of arms and break it by surprise, or to violate a safe conduct⁵ or any other agreement, in order to obtain advantage, is an act of perfidy and as such is forbidden.

¹ Hague Rules, 23 (b). As, for example, by calling out, "Do not fire, we are friends," and then firing a volley, or shamming dismemberment or death and then using arms.

² Espionage is dealt with in para. 155 *et seq.*

³ Although many writers dissent, military practice has always sanctioned such acts.

⁴ Kriegerbrauch, 1902, p. 16, footnote. See also para. 60.

⁵ See para. 323.

149. The improper use of the distinctive signs of the Red Cross Convention is forbidden.¹ The Red Cross flag must not be used to cover wagons employed for the transport of ammunition and non-medical stores. A hospital train must not be used to facilitate the escape of combatants. A gun or rifle must not be used from a tent flying the Red Cross flag, nor must a hospital or any other building, for which protection is demanded by flying the Red Cross flag or other symbol, be used as an observation post or military office or store. It would not be legitimate to take advantage of the respect due to the wounded and dead to feign disablement or death in order to await a convenient opportunity for destroying an obstacle or screen.

Ch. XIV
Improper
use of
Geneva
Cross.

150. The improper use of a flag of truce² and of signals of surrender is forbidden. The flag must not be used merely to obtain time to effect retreat or reinforcements. A surrender must not be feigned in order to take the enemy at a disadvantage when he advances to secure his prisoners. The fact that such acts are forbidden does not, however, absolve an officer from the necessity of taking proper precautions against them.³

Improper
use of flag
of truce.

151. In practice it has been considered a legitimate ruse to utilize the informal suspensions of arms for the collection of wounded and dead, which sometimes take place during a battle, to execute movements unseen by the enemy.⁴

152. The employment of a national flag, military insignia, and uniform of the enemy for the purpose of ruse is not forbidden,⁵ but the Hague Rules prohibit their *improper* use, leaving unsettled what use is a proper one and what is not. Theory and practice are unanimous in forbidding their employment during a combat, that is, the opening of fire whilst in the guise of the enemy. There is, however, no unanimity with regard to the question whether the uniform of the enemy may be worn and his flag displayed for the purpose of effecting approach or retirement.⁶

Use of flag,
uniform,
&c.

153. Although no such opportunities of closing with an enemy by exhibiting his flag are possible in land warfare as in naval warfare, the small national flags which in some armies are carried to mark the infantry firing line, might be used to mislead an enemy. Owing to the long ranges at which fire is now opened, it would as a rule be of very little service to a large force to adopt

¹ Hague Rules, 23 (f). See para. 210 *et seq.*

² Hague Rules, 23 (f). See para. 229 *et seq.*

³ During the operations of the French troops in Morocco, during 1910, when the French had by surprise turned the enemy's wing, a single Arab advanced with a white flag, and during the delay that ensued his party were enabled to reinforce the threatened point.

⁴ Thus at 1 p.m. on the 7th March, 1903, during the battle of Mukden, a group of Russians bearing Red Cross and white flags advanced towards the 1st Japanese Army and asked for a suspension of arms for several hours to remove the wounded and dead. The Japanese agreed, as they had many wounded, but the suspension was made without any defined agreement (*Sans entente bien définie*). In the evening, when the Japanese reopened fire, there was no reply, and it was found that the Russians had retired during the suspension of arms. Professor Ariga considers this was a legitimate ruse, although he calls it "unprecedented." (Ariga, 1906, p. 255.)

⁵ Hague Rules, 23 (f).

⁶ *Kriegsbrauch*, 1902 (p. 24) thinks that the use of the enemy's uniform and flag is entirely forbidden by the Hague rules. The French Manual, 1893 (p. 19), states that the actual practice tolerates their use as described in the text.

Ch. XIV the enemy's uniform, yet the use of it might be made at night and by small bodies and individual scouts.¹

154. If, owing to want of clothing, it becomes necessary to utilize apparel captured from the enemy, his badges should be removed before the articles are worn.²

V.—ESPIONAGE AND TREASON.³

Legal
means of
obtaining
information.

155. The employment of measures necessary for obtaining intelligence with regard to the enemy and the theatre of war is formally sanctioned by the Hague Rules.⁴

156. The ordinary means of obtaining information are reconnaissances by individuals or bodies of troops, questioning inhabitants and prisoners, examination of captured documents and papers, and the employment of spies or secret agents.

157. The collection of information openly by combatants clad in a distinguishable uniform is a recognised branch of the art of war, and it can be provided against by firing on the persons engaged in it or taking them prisoners. The acquirement of information by secret methods is controlled by laws of war which require some consideration.

Punish-
ment for
obtaining
information
by stealth.

158. It is lawful to employ spies and secret agents, and even to gain over by bribery or other means enemy soldiers or private enemy subjects.⁵ Yet the fact that these methods are lawful does not prevent the punishment, under certain conditions, of the individuals who are engaged in procuring intelligence in other than an open manner as combatants. Custom admits their punishment by death, although a more lenient penalty may be inflicted.⁶

159. The offence is punishable whether or not the individuals succeed in obtaining the information and conveying it to the enemy.

Definition
of spy.

160. Although any person who makes or endeavours to make unauthorised or secret communications to the enemy, or to collect information secretly for him, is ordinarily spoken of as a spy, the Hague Rules provide a definition of spy as regards land warfare which does not cover all such cases. For this reason the subject must be dealt with under the two headings of espionage and treason.

¹ Such persons, if captured in their enemy's uniform, would, however, be liable to trial as spies. (See para. 161 *et seq.*) If they use their arms they may be tried as war criminals. (See para. 441 *et seq.*) Cases have occurred of the greatcoats and head-dresses only of the enemy being made use of; these constitute enemy uniform.

² Articles of uniform which are distinctive of a particular army, such as the *biret* of the French *Chasseurs des Alpes* or the Turkish *fez*, should not be made use of unless in case of absolute necessity.

³ In this section only such cases of treason are dealt with as are closely allied with espionage; other forms of treason are considered in para. 445 *et seq.*

⁴ Hague Rules, 24. This article is not, however, to be taken to imply that every means of obtaining information is allowable; measures cease to be permissible if they contravene any other article of the Rules. (Hague Conference, 1864, p. 146.) It would not, for instance, be lawful to compel inhabitants of occupied territory to furnish information about the enemy's army, as this is forbidden by Rule 44.

⁵ Many writers dissent from this, but military custom has always sanctioned it.

⁶ The French Code, for instance, states that in the case of individuals not soldiers the court may, if there are extenuating circumstances, reduce the punishment.

161. According to the Hague Rules¹ a person can only be considered a spy when, acting clandestinely or on false pretences, he obtains or endeavours to obtain information in the zone of operations of a belligerent with the intention of communicating it to the hostile party.

162. The Hague Rules give several examples of person who cannot be accounted spies,² for instance, soldiers not wearing disguise who have penetrated into the zone of operations of the hostile army, and despatch bearers, whether soldiers or civilians who carry out their mission openly. It is also expressly mentioned that persons sent in balloons either for the purpose of carrying despatches or maintaining communication are not as such liable to be treated as spies.³

163. The principal characteristic of the offence of espionage is dissimulation of the object pursued.

164. It follows that an officer or soldier who is discovered in the enemy's line dressed as a civilian, or wearing the enemy's uniform, may be presumed to be a spy, unless he is able to show that he had no intention of obtaining military information.⁴

165. The fact that a person acting as a spy is in the naval or military service of his State does not screen him from punishment should he be apprehended by the enemy. Nor does the fact that he is in uniform make it impossible for him to be a spy.⁵

166. The Hague Rules do not refer to cases in which inhabitants of invaded or occupied territory, or enemy subjects residing in or visiting the territory of a belligerent, furnish, or attempt to furnish, information to the enemy. Such persons may be technically outside the zone of operations. They may without using any disguise merely report what they see, or what they obtain by use of the paid agents, and they may forward information by post or special messenger. Thus they might not in any way come under the definition of a spy as laid down in the Hague Rules.⁶

War
treason.

167. Such persons should be charged with war treason,⁷ for although treason as such is not mentioned in the Hague Rules, belligerents are by customary international law empowered to punish treason by death. Indeed in every case where it is doubtful whether the act consists of espionage, once the fact is established that an individual has furnished or attempted to furnish

¹ Hague Rules, 29.

² Hague Rules, 29. These examples are not intended to be exhaustive.—(Hague Conference, 1899, p. 146.)

³ During the Great War, 1914–1918, it was generally recognised that acts of personnel in correctly marked aircraft performed while in the air were not deemed espionage. Any acts of espionage committed after leaving the aircraft by members of the crew or passengers transported by it remain subject to the provisions of the Hague Rules.

⁴ A civilian who came from the enemy's lines and attempted to return there, evading the outposts, might equally be presumed to be a spy, unless he can show that he has no intention of obtaining military information.

⁵ A soldier admitted to the enemy's lines under the privileges of the Red Cross, of a flag of truce, or of a safe conduct might take advantage of opportunity afforded him of obtaining information.

⁶ In 1914–1918 it was the practice to treat them in all respects as spies, while making due allowance for the attendant circumstances in awarding punishment.

⁷ See para. 441 *et seq.*

Ch. XIV information to the enemy, no time need be wasted in examining whether the case corresponds exactly to the definition of espionage.¹

168. Subjects of neutral Powers resident in or visiting an invaded or occupied territory, can claim no immunity from the customary laws of war which threaten punishment for communication with the enemy.

Trial of
spies.

169. A spy, even when taken in the act, must not be punished without previous trial.²

Any person arrested in the act or on suspicion of committing an offence against the military forces must be brought before a tribunal or court of enquiry at the earliest possible date, and the proceedings of the tribunal or court of enquiry forwarded to headquarters for permanent record. Whilst detained pending enquiry or trial such persons must be treated in a manner suited to their situation.³

Immunity
for com-
pleted
acts of
espionage.

170. A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, that is, after he has completed an act or attempted act of espionage, incurs no responsibility for his previous acts of espionage, and must be granted the privileges of a prisoner of war.⁴

171. This immunity for previous acts does not apply to persons guilty of treason, for they may be arrested at any place or any time.⁵ It is not necessary for traitors to be caught in the act in order that they may be punished.

Assistance
to spies.

172. Assisting or favouring espionage or treason and knowingly concealing a spy may be made the subject of charges; such acts are by the customary laws of war equally punishable.

173. Neither sex nor age affords any immunity from the operation of the laws with regard to espionage and treason.

¹ Usually when in the course of hostilities one of the belligerents takes possession of territory abandoned by his adversary, his first care will be to prevent inhabitants giving information with regard to his force and movements. With this object in view he will notify the inhabitants by proclamation or other means that any individual who sends information to the army or government of his country with a view to injure the occupying army will be guilty of treason and will be punished with death. But even in the absence of such a proclamation an individual may be punished as a war traitor for all unauthorized or secret communication with the enemy.

If the act is committed by anyone in the home territory the laws of the land usually provide for its punishment. Thus in England a person can be tried for high treason on the counts of traitorously compassing, imagining, and intending the deposition and death of the Sovereign and of traitorously adhering to, aiding and comforting the Sovereign's enemies. The leading case is that of the French Colonel De la Motte (State Trials, Vol. XXI), who was resident in London, and was, in 1781, tried for collecting and forwarding to his Government reports with regard to the number of British ships and forces. It was then laid down that whilst a foreigner is under the protection of the laws of this kingdom, he owes allegiance to it equal to that of any natural-born subject, and that the fact that this allegiance is local and temporary is of no consequence in law.

² Hague Rules, 30. Still less can anyone else be punished without previous trial, which in every case is indispensable. (Hague Conference, 1864, p. 146.)

³ Failure to bring such persons before a tribunal or court of enquiry at the earliest possible date, or to treat them in a manner suitable to their situation may lead to successful claims to heavy damages years after the event. In 1931 a French widow was awarded damages by arbitration owing to the alleged improper treatment of her husband who was arrested in North Persia in August, 1918.

⁴ Hague Rules, 31. Though he incurs no responsibilities for previous acts of espionage, this immunity applies only to such acts and does not extend to other infractions of the law of war. (Hague Conference, 1864, p. 146.) Thus, if he had killed anyone whilst effecting his return, he might be tried for murder.

⁵ This was the Japanese practice in Manchuria. (Ariga, 1908, pp. 306-7.) But a civilian who had regained part of the country not occupied by the enemy, after spying in invaded or occupied territory, must be given the benefit of the immunity, for Rule 31 does not confine it to spies who are soldiers.

VI.—THE SICK, WOUNDED, AND DEAD.

174. The treatment of the sick and wounded of armies, the privileges of the personnel charged with their care, the special immunities of the establishments and buildings in which they are attended, and the obligations with regard to the dead are dealt with in the "Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field" of the 27th July, 1929, generally called the "Red Cross Convention."¹ The duties of neutral Powers as regards sick and wounded who are permitted to enter their territories are dealt with in the "Convention concerning the Rights and Duties of Neutral Powers and Persons."²

Inter-
national
agree-
ments.

(i) *The Sick and Wounded.*

175. The first and most important obligation is that sick and wounded persons belonging or officially attached to armies must be respected and cared for medically, without distinction of nationality, by the belligerent in whose power they may be.³

Care of
sick and
wounded
obligatory.

176. As this obligation might prove too onerous for a victor left in possession of a battlefield covered with the wounded not only of his own but also of the enemy's army, it has been agreed that a belligerent who is compelled to abandon sick or wounded to his foe must, so far as military exigencies permit, leave behind with them a portion of his medical personnel to take care of them, and the necessary material.⁴

177. There is no obligation to tend inhabitants or other persons not officially attached to armies, who may have been wounded by chance, or accident, as a result of the hostilities in progress.⁵

178. Sick and wounded who are captured are prisoners of war; they have no privileges different from those of unwounded and healthy prisoners beyond that of proper medical attendance. In particular they have no right to claim exchange or release because they are unfit for active military service.⁶

Sick and
wounded
are liable
to be made
prisoners.

179. Whenever circumstances permit, a local armistice or a suspension of fire shall be arranged to permit the removal of the wounded remaining between the lines. After an engagement the commander in possession of the field must take measures to have search made for the wounded and to protect them against acts of pillage and maltreatment.⁷

Search for
and protec-
tion of
wounded.

¹ Printed as App. 23. The Conventions of 22nd August, 1864, and 6th July, 1906, still hold good between Powers which were *signatories* thereto and have not ratified or *adhered* to the later Convention.

² See para. 493 *et seq.*

³ Red Cross Convention, art. 1 (para. 1). A wounded man who continues to act in an actively hostile manner is not entitled to claim protection.

⁴ Red Cross Convention, art. 1 (para. 2).

⁵ The absence of any provision for the care of such persons has been regarded as a weak point in the Red Cross Convention. During the Russo-Japanese War, both at Liao-yang and Mukden, the number of inhabitants—men, women, and children—who were injured was very considerable. It is desirable that the principles of the Convention should be applied to such cases, although they are not specifically mentioned in it.

⁶ Red Cross Convention, art. 2.

⁷ Red Cross Convention, art. 3.

Ch. XIV

Nominal
rolls to be
sent to
enemy.

Privileges
of inhabi-
tants who
give assist-
ance.

180. A nominal roll of all wounded and sick who have been collected must be sent as early as possible to the authorities of the country or army to which they belong. The proper channel for sending this information to the enemy is the Prisoners of War Information Bureau.¹

181. Under article 5 of the Geneva Convention of 1864 inhabitants who assisted the wounded could claim to be treated as neutrals, and those who took wounded into their houses were exempted from having troops quartered on them, as well as from part of the contributions of war. These privileges were not continued by the Conventions of 1906 and 1929. For it had been found that so far from ameliorating the condition of the wounded, they had had the effect of encouraging the inhabitants to withdraw wounded men from proper medical attendance and to move them when they had best been left undisturbed. They had also led to more serious abuses: inhabitants took wounded under their charge, not only in order to protect their homes, but to save from capture members of their family and others who were hidden in the house; in some cases these persons feigned to be wounded soldiers.

182. To soften the apparent harshness of this change, it has been agreed that if a competent military authority finds it necessary to appeal to the charitable zeal of the inhabitants, he shall grant to those who respond to his call special protection and certain facilities. He must, however, secure that any assistance that is rendered is given under military supervision.² As a rule the collection and removal of wounded are best performed by requisitioned rather than by voluntary labour, for it can be more easily regulated and controlled. Wherever there is plenty of voluntary labour there must also be abundance of local resources available for requisition, so that no wrong is done to the wounded by restricting voluntary help on the part of the local inhabitants.

(ii) *The Medical Personnel.*

Privileges
of the
medical
personnel.

183. In order that the sick and wounded may receive proper attention with as little disturbance as possible, all the formations and establishments of the medical service, whether mobile or fixed, and their personnel and army chaplains, must be protected and respected in all circumstances by the belligerent forces. Further, the personnel, if it falls into the hands of the enemy, must not be held as prisoners of war.³ There is, however, no just cause for complaint of the violation of the Convention if in the execution of their duty members of the medical personnel and army chaplains are accidentally killed or wounded; they are only protected from deliberate attack.⁴ Soldiers specially trained to be employed, in case of necessity, as auxiliary nurses or stretcher-bearers for the collection, transport and treatment of the wounded and sick, and furnished with a proof of identity, enjoy the same treatment as the permanent medical personnel if they are taken prisoners while carrying out these functions.

¹ Red Cross Convention, art. 4.

For details of the Bureau, see paras. 115-115d.

² Red Cross Convention, art. 5.

³ Red Cross Convention, arts. 6 and 9.

⁴ The words "neutral," "neutrality," and "neutralised," which were used in the 1864 Convention in connection with the medical personnel, are not employed in the 1906 and 1929 Conventions, by which the personnel is only entitled to be "respected and protected." It cannot, naturally, be made immune from the effects of shell and bullet fired at ranges at which badges and uniform are not distinguishable.

184. To obtain the above privileges, the personnel must be exclusively engaged in the collection, transport, and treatment of the wounded and sick, or in the administration of the medical formations and establishments.¹ Ch. XIV
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185. The privileges accorded naturally cease if medical formations and establishments are made use of to commit acts harmful to the enemy; for instance, to shelter combatants, to conceal guns, or to carry on espionage; or if the personnel take part in a combat.² Certain acts, referred to in the following paragraphs, which in the past were considered to be of a harmful nature,³ do not now deprive a medical formation of the protection afforded by the Convention.⁴ Harmful acts.

186. It is expressly permitted that the medical personnel and medical orderlies may be armed and may use their arms for their own defence, or for that of the patients under their charge, against marauders and such like.⁵ Arms.

187. In some armies it is the practice to use trained soldiers as medical orderlies, while in others it is not; it is therefore expressly permitted that a piquet or sentinels taken from a combatant arm may be used as a guard to a medical formation.⁶ Armed Guards.

188. The fact that personnel and material of the veterinary service, not forming an integral part of the formation or establishment, or that the arms and ammunition belonging to wounded men are found in a medical formation or hospital must not be construed to constitute an act harmful to the enemy. Every endeavour should, however, be made to hand over such articles to the proper department as early as possible.⁷ Arms of wounded.

(iii) *Voluntary Aid Societies.*

189. Under certain conditions, the personnel of Voluntary Aid Societies which may be employed in the formations and establishments of armies is assimilated to, and placed on the same footing as that of, the Army Medical Service.⁸ Position of Voluntary Aid Societies.

190. These conditions are:—that the Societies must be duly recognized and authorized by their Governments, that the names of the Societies must be notified to the enemy before any of their personnel is employed, and that the personnel must be subject to military law.⁹ Recognition and authorisation.

¹ Red Cross Convention, art. 9. Drivers of the Royal Army Service Corps who are on the establishment of field ambulances, and thus "exclusively engaged" on the transport of sick and wounded, are entitled to protection under this article. The fact that they are "exclusively engaged" is indicated by the wearing of the Red Cross brassard referred to in para. 214.

² See para. 149. The offenders not only lose their privileges, but are liable to punishment as war criminals; see para. 441 *et seq.*

³ E.g., in the South African War, during which the Geneva Convention of 1864 was still in force.

⁴ Red Cross Convention, art. 7.

⁵ Members of the medical personnel who take part in a combat—and instances of their doing so have occurred, through excitement, or through a medical officer taking command in the absence, or on account of the disablement of other officers—should remove the Red Cross badge referred to in para. 214. Otherwise, if captured, their conduct may be made the subject of enquiry as an abuse of the Emblem under art. 23 of the Hague Rules. Permission to resume the badge should usually be accorded if it is asked for.

⁶ Red Cross Convention, art. 8 (1).

⁷ Red Cross Convention, art. 8 (2).

⁸ Red Cross Convention, art. 8.

⁹ Voluntary Aid Societies are popularly called Red Cross Societies.

¹⁰ Red Cross Convention, art. 10.

Ch. XIV

Voluntary
Aid
Societies of
neutral
countries.

191. So many irregularities, and even acts of hostility, have been committed in past wars by members of Voluntary Aid Societies that commanders should always take care to ensure that the above conditions have been complied with before permitting such persons to assist the medical service.

192. The offers of assistance from the Voluntary Aid Societies of neutral States may be accepted, provided that the Societies obtain the consent of their own Government before offering their services, and the authorisation of the belligerent Government which they wish to assist, and the latter Government notifies the fact of the authorisation to its adversary before making any use of them. In these circumstances the personnel of the medical units of Voluntary Aid Societies of neutral States must be granted all the privileges accorded to the Voluntary Aid Societies of the belligerent concerned.¹ It is not necessary to obtain the consent of the adversary to utilize their services.²

(iv) *Captured Medical Personnel.*

Privileges
and duties
of captured
personnel.

193. Medical personnel may not be retained after they have fallen into the hands of the enemy.³

194. In the absence of an agreement to the contrary, the medical personnel shall be sent back to the belligerent to which they belong as soon as a route for their return is open and military considerations permit.⁴

195. In interpreting the above obligations it must be borne in mind that they are designed to secure that members of medical units shall not be in a position to take back useful information to their army. They are not meant to afford an excuse for depriving the enemy of the services of his medical personnel for an indefinite length of time.

196. Pending their return they shall continue to carry out their duties, preferably towards their own sick and wounded, under the direction of the enemy.⁵ Thus, the medical personnel of a force which capitulates may be engaged in the care of the sick and wounded included in the surrender.

197. The personnel on being returned is entitled to take with it such effects, instruments, arms, and means of transport as are the private property of its members.⁶

Limita-
tions on
freedom of
movement.

198. The fact that they may be detained and not permitted to return when and how they wish is sufficient penalty to prevent medical formations and individual members of the medical personnel proceeding anywhere they please in a theatre of war for the purpose of collecting, succouring, or removing wounded and sick. If they persist in approaching when their presence is not desired

¹ Red Cross Convention, art. 11.

² Geneva Conference, *Actes*, p. 118.

³ Red Cross Convention, art. 12.

⁴ Red Cross Convention, art. 12. This clause was introduced into the Convention of 1906 to justify the usual practice in war. Under the Convention of 1864 captured personnel could, and did, demand to be sent back at once to the outposts of its own army. The inconvenience of this from a military point of view was so serious that the request was not always complied with. Thus, during the South African War members of the medical personnel captured by the forces of the Republics were returned via Delagoa Bay, and in the Russo-Japanese War some captured by the Japanese at Ta-shih-chiao and Mukden were sent back via Ying-hou. (*Ann.* 1906, pp. 197, 208, 207.)

⁵ Red Cross Convention, art. 12 (para. 4).

and refuse to halt when summoned to stop, it would be lawful, Ch. XIV as an extreme measure, to fire upon them.¹

199. At the outbreak of hostilities, the belligerents will notify one another of the grades of their respective medical personnel.²

(v) *Medical Material.*

200. Although all the medical personnel must be released in case of capture, a distinction is drawn between the treatment of the material of mobile medical formations,³ of fixed medical establishments and of convoys for the evacuation of sick and wounded. Differentiation in treatment.

201. Mobile medical formations must be released complete with their material, including their teams, whether their means of transport and their drivers belong to the army or are requisitioned. The conditions of release are the same as those laid down for the medical personnel. As far as possible the personnel and material should be restored at the same time.⁴ They should not indeed be separated unless the circumstances are such that the return of the personnel is immediately feasible, but delay must, on account of physical or other difficulties, occur before the material can be sent off. Mobile medical units.

202. A belligerent is, however, permitted to use the material in captured mobile medical formations for the treatment of the sick and wounded of his own army or those of the enemy's army who are in his power.⁵

203. There is no obligation to provide teams to facilitate the return of the material should a captured unit have lost all or part of its own animals by casualties. If, however, military exigencies permit, every assistance should be rendered for the sake of the sick and wounded.⁶

204. The buildings of fixed medical establishments, hospitals, and depôts remain in the power of the captor, for, from their nature, they cannot be sent back to the enemy. They may not, however, be used for other than medical purposes so long as they are necessary for the wounded and sick, unless in cases of urgent military necessity, and then only provided arrangements are previously made for the welfare of the wounded and sick found in them.⁷ Fixed medical establishments.

205. As a hospital or other fixed medical establishment would be useless without its material, this follows the fate of the buildings and becomes the property of the captor.⁸

¹ Nothing in the Red Cross Convention gives medical units immunity from search. A Red Cross train or any other unit may, just like a ship, be summoned to halt by firing a shot across its course.

² Red Cross Convention, art. 13.

³ That is to say, those which are "intended to accompany armies into the field" (Red Cross Convention, art. 6). Under this term are included—besides the usual wheeled vehicles—railway trains and boats used in internal navigation, which are specially fitted up for removing the sick and wounded, as well as any material belonging to the medical service for fitting up ordinary vehicles, trains, and boats. Red Cross Convention, art. 17.

⁴ Red Cross Convention, art. 14.

⁵ Thus, after the battle of Mukden, the Japanese provided sufficient transport for 80 members of the captured Russian medical personnel to enable them to return direct to their army. The remaining 710 persons, however, for whom no transport could be found, had to rejoice by making use of the railway into Chinese territory. (Ariga, 1906, pp. 205-7.)

⁶ Red Cross Convention, art. 15. Thus it would be permissible to fortify and garrison a hospital building, provided the sick and wounded were removed to another house.

⁷ Red Cross Convention, art. 16.

Ch. XIV

Medical
transport.

206. Vehicles equipped for the evacuation of the wounded and sick, proceeding singly or in convoy, shall be treated as mobile medical formations—that is, their personnel and material must be restored. This rule is, however, subject to the following special provisions :—

- (i) A commander who intercepts vehicles of medical transport, may, if military exigencies demand, stop them and break up the convoy, provided he takes charge of the wounded and sick who are in it. He can only use the vehicles in the sector where they have been intercepted and exclusively for medical requirements. These vehicles, as soon as they are no longer required for local use, shall be given up as in the case of mobile medical formations.
- (ii) The military personnel in charge of the transport, provided it is furnished with authority in due form, shall be treated as if it were medical personnel, subject, in the case of aircraft, to the last provision of the next paragraph.¹
- (iii) The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.²

207. Aircraft used as means of medical transport shall enjoy the protection of the Convention during the period in which they are reserved exclusively for the evacuation of wounded and sick and the transport of medical personnel and material. They shall be painted white and bear the distinctive emblem side by side with their national colours on their lower and upper surfaces. Flying over the zone situated in front of clearing or dressing stations and generally over enemy territory and territory occupied by the enemy, is prohibited. They shall obey every summons to land. In the event of a landing thus imposed, or of an involuntary landing in enemy territory or territory occupied by the enemy, the wounded and sick, the medical personnel and material, including the aircraft, shall enjoy the privileges of the Convention.

The pilot, mechanics and wireless telegraph operators captured shall be sent back, on condition that they shall be employed until the close of hostilities in the medical service only.³

Dépôts.

208. Army medical material found elsewhere than in mobile medical units or convoys of evacuation is liable to capture.

Material of
Voluntary
Aid
Societies.

209. The buildings and material belonging to Voluntary Aid Societies which are admitted to the privileges of the Red Cross Convention are not completely assimilated as regards treatment to the material of the Army Medical Service. They must in all circumstances be regarded as private property; but, whether they are found in a mobile medical formation, or in a fixed medical establishment, or in a convoy of evacuation, or captured elsewhere in the theatre of war, they can always be requisitioned. In this case, unless they are paid for in cash, a receipt must be given for them.⁴

¹ See para. 201.

² Red Cross Convention, art. 17.

³ Red Cross Convention, art. 18.

⁴ Red Cross Convention, arts. 15 and 16. No exception is made as regards the material in mobile medical units, which, if it belongs to the Army Medical Service and not to a Voluntary Aid Society, must be returned (art. 14). See paras. 200 and 201.

The difficulties of applying this clause will be great, for in some armies the Red Cross Societies provide a considerable proportion of the transport and other material of the regular

The right of requisition must only be exercised in case of urgent necessity, and only after the welfare of the sick and wounded has been secured. Ch. XIV

(vi) *The Medical Emblem.*

210. The mark which has been adopted to indicate the medical services of armies is a Red Cross on a white ground. In the case of countries which already use, in place of the Red Cross, the Red Crescent or the Red Lion and Sun on a white ground as a distinctive sign, these emblems are also recognized.¹ These signs, by the provisions of the Red Cross Convention, shall not be used except to protect and indicate the medical formations and establishments and the personnel and material accorded privileges by the Red Cross Convention.² The Red Cross on a white ground.

211. In no case can the sign be recognized unless it is used with the permission of competent military authority. The permission is signified either by a written authorization, or by an official stamp on the sign.³ Permission of military authority.

212. Medical formations and establishments must hoist the Red Cross flag. In fixed establishments it shall be, and in mobile formations it may be, accompanied by the national flag of the belligerent to whom the formation or establishment belongs, unless the unit falls into the hands of the enemy. In this situation the Red Cross flag alone will be flown.⁴ Belligerents shall take the necessary steps, so far as military exigencies permit, to make clearly visible to the enemy land, air or sea forces, the distinctive emblems indicating medical formations and establishments, in order to avoid the possibility of any offensive action. The flag.

213. The medical units belonging to neutral countries which shall have been authorized to afford their services under conditions already mentioned shall fly, along with the flag of the Convention, the flag of the belligerent to whose army they are attached; they must in other respects conform to the instructions in the last paragraph. They shall also have the right so long as they shall lend their services to a belligerent, to fly their national flag.⁵

214. The persons protected by the Red Cross Convention,⁶ in order to secure the privileges conferred by it, must wear fixed permanently to the left arm an armlet (brassard) with the The brassard.

¹ Turkey uses a Red Crescent, and Persia a Red Sun. In addition to flying the Red Cross flag, military hospital ships must be "painted white outside, with a horizontal band of green about one metre and a half in breadth," and officially recognized hospital ships equipped by private individuals or societies, white with a similar horizontal band of red. (Hague Convention, 1907, for the Adaptation of the Principles of the Geneva Convention to Maritime War.)

² Red Cross Convention, arts. 19, 24 and 28. Voluntary Aid Societies may, in accordance with their national legislation, use the distinctive emblem in connexion with their humanitarian activities in time of peace. It may also be used in time of peace to mark the position of aid stations exclusively reserved for giving free treatment to the wounded or sick. The emblem may not be used for commercial purposes or for any purposes other than those provided for in the Convention.

³ Red Cross Convention, arts. 20, 21 and 22.
⁴ Red Cross Convention, art. 22. A rigid *plaque* may be used instead of a flag (Geneva Conference, *Actes*, p. 196). There is no indication how the two flags are to be associated. In most armies the two flags are flown on separate poles which are sometimes crossed.

⁵ Red Cross Convention, art. 23.
That is to say, those engaged exclusively in the collection, transport, and treatment of the wounded and the sick, and in the administration of medical units and establishments; also the personnel of Voluntary Aid Societies of the belligerents and neutrals who fulfil the conditions laid down in paras. 189-192.

Ch. XIV Red Cross on a white ground, delivered and stamped by competent military authority.¹ Such persons must, if they do not wear a military uniform, be in possession of a certificate of identity with photograph, certifying their status as medical personnel.²

Marking of material.

215. The material of the medical service must, in order to obtain the benefits of the Convention, be marked with the Red Cross on a white ground.³

216. Cases with regard to the treatment of sick and wounded which have not been specifically provided for or mentioned in this chapter must be dealt with conformably to the general principles enunciated in the Red Cross Convention. On the request of a belligerent, an enquiry shall be instituted, in a manner to be decided between the interested parties, concerning any alleged violation of the Convention; when such violation has been established the belligerents shall put an end to and repress it as promptly as possible.⁴

(vii) *The Dead.*

217. The dead must be protected against pillage and maltreatment.⁵

Examination, protection, and burial of the dead.

218. The names of the dead collected or discovered, together with certificates of death and any indications which may assist in their identification, must be communicated by belligerents to each other reciprocally, as soon as possible.⁶

219. Before the dead are buried or cremated they must be carefully examined to see that life is extinct.⁷

220. Belligerents shall collect and transmit to each other all articles of a personal nature found on the field of battle or on the dead, especially one half of their identity discs, the other half to remain attached to the body.

They shall ensure that the dead are honourably interred, that their graves are respected and marked so that they may always be found. To this end, at the beginning of hostilities, they shall organise a graves registration service. After the cessation of hostilities they shall exchange the list of dead interred in their cemeteries.⁸

¹ Red Cross Convention, art. 21. Under the Geneva Convention of 1864 (art. 7) the brassard could be slipped on and off as it was merely "allowed" (*admis*) and no directions were given as to how it should be worn. It must now be "fixed" (*fixé*), because it would be gravely inconvenient if it could be put on and taken off too easily (Geneva Conference, 1906, *Ades*, pp. 194-195).

² These certificates shall be of the same pattern in each army. Medical personnel who wear uniform shall be provided with a certificate of identity, consisting either of an entry in their small book (pay book) or a special document.

³ If the material is marked with the Geneva Cross only, it cannot well be accepted as private property belonging to a Voluntary Aid Society, as the Cross is the distinctive mark of the medical service of armies (Red Cross Convention, arts. 19 and 20). To obtain the extra privileges referred to in para. 209 the material of the Voluntary Aid Societies should be marked, in addition to the Geneva Cross, with the name of the Society or some other means of identification.

The size of the Cross is not laid down. It was proposed at the Geneva Conference, 1906, that all the vehicles of the medical service should be painted white and should have on them as large a Red Cross as possible. Practical and economic objections led to the proposal being rejected (*Ades*, p. 194). Red Cross marks visible by aircraft are specially important.

⁴ Red Cross Convention, art. 20.

⁵ Red Cross Convention, art. 8.

⁶ Red Cross Convention, art. 4. The Prisoners of War Information Bureau is the proper channel for the transmission (see para. 115d). See also Field Service Regulations, Vol. I, 1930, sec. 125, p. 202, and Appendix VI, p. 876.

⁷ Red Cross Convention, art. 4.

VII.—INTERCOURSE BETWEEN BELLIGERENTS.

Ch. XIV

(i) *Non-hostile Relations in General.*

221. Although the outbreak of war between States brings all the usual non-hostile intercourse to an end and closes the official means of intercommunication by diplomatic channels, it is sometimes unavoidable, and often convenient, for commanders to open communication with the enemy for military purposes. Furthermore, humanity and convenience sometimes induce them for special reasons to grant certain relaxations in regard to the total cessation of the usual intercourse between the belligerent nations.

Necessity and convenience of intercourse.

222. It is essential in all these non-hostile relations that the most scrupulous good faith should be observed by both parties,¹ and that no advantage should be taken which is not intended to be given by the adversary.

223. The ordinary kinds of non-hostile relations are comprised under the headings of parlementaires and flags of truce, armistices, capitulations, passports and safe-conducts, safeguards, and cartels.²

Summary of means of non-hostile relations.

(ii) *Parlementaires and Flags of Truce.*

224. The usual agents in the non-hostile intercourse of belligerent armies are known as parlementaires.³

Parlementaires.

225. Their duties include every form of communication with the enemy in the field. For example, the conveyance of a letter, or of a simple verbal message; a summons to surrender; negotiations for suspension of hostilities or for capitulation; settlement of the exchange of prisoners. Arrangements may be made through parlementaires for the appointment of plenipotentiaries or agents for any purposes of special importance.⁴

226. Whilst in the performance of their duties, provided their conduct is correct,⁵ they are entitled to complete inviolability.⁶

Inviolability.

227. It is of the utmost importance that every soldier in an army, from the highest to the lowest, should be thoroughly acquainted with the privileges of parlementaires and with the proper mode of receiving them, so that no untoward incident can possibly arise.

228. According to the Hague Rules, a person to be regarded as a parlementaire must be authorised by one of the belligerents to enter into communication with the other and must present himself under cover of a white flag.⁷

Credentials of a parlementaire.

¹ For good faith in other matters see para. 140 above.

² See para. 115 as regards intercourse concerning wounded and prisoners.

³ It has been thought desirable to adopt this word, for which the ancient verb "to parley" would seem good authority, from the Hague Rules; it is current in all other armies in addition to an expression for "flag of truce." The use of the latter term by British manuals in the past to mean indifferently both the envoy and the emblem, and sometimes to mean only the envoy, and at other times the envoy and his attendants, has given rise to some confusion. The use of the expression "bearer of a flag of truce" to signify the principal agent is also misleading, as he is seldom the actual bearer of the flag. See note to arts. 32, 33 and 34 of the Hague Rules in App. 6 to this chapter.

⁴ The punishment for sending a flag of truce to the enemy "treacherously or through cowardice" or "without due authority" is given in A.A.4 (3) and 5 (4).

⁵ See Hague Rules, 33 and 34, and para. 251 below.

⁶ Hague Rules, 32.

⁷ Hague Rules, 32.

Ch. XIV

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Significa-
tion of the
white flag.

229. Since time immemorial a white flag has been used as a signal by an armed force which wishes to open communication with the enemy. This is the only signification that the flag possesses in International Law. The hoisting of a white flag, therefore, means in itself nothing else than that the one party is asked whether it will receive a communication from the other. It may, perhaps, only indicate that the party which hoists it wishes to make an arrangement for the suspension of arms for some purpose; but it may also mean that the party wishes to negotiate for surrender. Everything depends on the circumstances and conditions of the particular case. For instance, in practice, the white flag has come to indicate surrender if hoisted by individual soldiers or a small party in the course of an action. Great vigilance is always necessary, for the question in every case is whether the hoisting of the white flag was authorised by the commander.

230. In consequence, when a white flag is hoisted the adversary need not necessarily cease fire.¹ It is only by sending a parlementaire that an arrangement can be come to. It is absolutely necessary that the belligerent who hoists the white flag, because he wishes to communicate, should halt and cease firing; for otherwise the enemy is not certain that the hoisting of the white flag is authorised.

231. Fire must not intentionally be directed on the person carrying the white flag or persons near him.² If, however, the persons near a flag of truce which is exhibited during an engagement are incidentally killed or wounded, it furnishes no ground for complaint. It is for the parlementaire to wait until there is a propitious moment, or to make a detour to avoid the dangerous zone. The proper time to send a parlementaire is during the intervals of active operations; only in cases of extreme urgency should one be sent during an engagement.

232. No provision is made for opening communication with an enemy during the hours of darkness, when a white flag cannot be seen.³

233. The authorization given to the parlementaire should be in writing and signed by the commander of the force.⁴

The
authorisa-
tion.

¹ This is the view taken by all the authorities, e.g., Ariga, 1908, p. 274; Longuef, 1901, p. 233; Holtzendorff, 1884-1889, iv, p. 423; *Kriegsbrauch*, 1902, p. 29; American Instructions 1863, art. 112. The following instructions were issued by General Baron Nogi at the siege of Port Arthur, 1904:—

- a. During the bombardment of a fortress, although a particular fort hoists a white flag, there is no necessity to cease firing on that fort. Bombardment must be continued until an agreement is come to by the arrival of a parlementaire. A special order to cease fire will then be given by the commander of the army.
- b. The same course will be pursued if all the forts hoist a white flag; but in this case a report will be made as soon as possible to headquarters. Whilst waiting orders fire will be continued.
- c. If during a bombardment a parlementaire is seen leaving the enemy's lines, fire must not on any account be stopped or relaxed in the direction from which he comes, but he must not be fired on intentionally. (Ariga, 1908, p. 274.)

² See sub-para. c of the last footnote.

³ During the pursuit after the battle of Mukden a body of Russian troops came up in the night behind a Japanese force and was heavily fired on. To indicate his desire to surrender, the Russian commander had the Japanese national anthem played. This was, however, misinterpreted by the Japanese, who thought it was a ruse to deceive them, and they redoubled their fire. Their mistake was not rectified until daylight. (Communicated by a Japanese officer who was present.)

⁴ The authorizations used in the Russo-Japanese war were usually in the following form:—
"I authorize by these presents Major-General _____ Signed _____ to _____
Commander-in-Chief
of the Japanese Army besieging Port Arthur." (Ariga, 1908, p. 304.)

234. The commander to whom a parlementaire is sent is not obliged in every case to receive him.¹ There may be a movement in progress the success of which depends on secrecy,² or it may, owing to the state of the defences, be undesirable to allow an envoy to approach a besieged locality. In direct contrast, however, to a former rule it is now no longer permissible—except in case of reprisals for abuses of the flag of truce—for a belligerent to declare beforehand, even for a specified period, that he will not receive parlementaires.³

Ch. XIV

No obligation to receive parlementaires.

235. It is permissible for a commander to declare the formalities and conditions under which he will receive a parlementaire, and to fix the hour and place at which he should appear.⁴

236. An unnecessary repetition of visits need not be allowed.

237. The number of persons who may accompany the parlementaire to the enemy's lines, unless special authorization for additional ones is given,⁵ is limited to three: a trumpeter, bugler, or drummer, a flagbearer, and an interpreter. These are entitled to the same inviolability as the envoy himself.⁶

Party accompanying the parlementaire.

238. The parlementaire may, however, come alone, carrying the white flag himself. It is, however, advisable that he should at least have a trumpeter or bugler with him, for otherwise his character might not be understood quickly enough to prevent danger to himself.⁷

239. The parlementaire, mounted or on foot, as may be convenient, provided with the necessary authorization, and accompanied by the attendants permitted to him, should approach the enemy's outposts or lines at a slow pace.⁸ As soon as he reaches a position where he can be seen and heard, the trumpeter, bugler, or drummer should sound, and the flag should be waved.

Conduct of the parlementaire.

240. He should then advance at a walk towards the line, obeying any directions that may be signalled or given to him by the party sent out to meet and conduct him.⁹

241. He has no right to enter the line at any point that he may wish, but may be directed to a piquet or detached post

¹ Hague Rules, 33.

² Thus, after the battle of Montebello, in 1859, the French refused to receive parlementaires from the Austrian lines, as it was essential to conceal certain movements.

³ *Kriegsbrauch*, 902 (p. 27), and many text books published after the first Hague Conference of 1864 still teach the former rule as valid. However, the contrary is clearly apparent from the report of the Hague Conference of 1864 (p. 147). On the other hand, it would seem permissible for a belligerent to resort to reprisals, and to declare that he will not receive parlementaires in case the enemy is guilty of a gross abuse of the flag of truce. See para. 452 *supra*.

⁴ Thus at the siege of Port Arthur, General Baronnet stipulated that the Russian parlementaire "should arrive at the first line of the Japanese army, at the entrance of Shui-shih-yang, on the main road from Port Arthur to Chin-Chou, on 17th April, 1904, before the first minute of 10 a.m." (*Ariga* 1908, p. 277.)

⁵ This should be obtained in writing.

⁶ Hague Rules, 32.

⁷ It is quite clear from the report of the Hague Conference, 1864 (p. 147), that the parlementaire may come quite alone, carrying the flag of truce himself. *Kriegsbrauch*, 902, (p. 26), lays down that the parlementaire must be "clearly recognizable by usual known signs (white flag or in emergency a white handkerchief, &c.) and calls (bugle and trumpet calls, roll of the drum) visible and audible from afar."

Kriegsbrauch, 1902 (p. 26), adds "horse-holders" to the persons already named who may accompany the parlementaire, but there is no authority for this, or for granting them inviolability. The party should be strictly limited to the numbers allowed by the Hague Rules, unless special authorization is given.

⁸ Several unfortunate incidents have occurred owing to the parlementaire arriving at, or leaving, the enemy's lines at a gallop, and being fired on in error.

⁹ For the detailed instructions as regards the conduct of the outposts, see Field Service Regulations, 1929, Vol. II, sec. 54, p. 87.

Ch. XIV detailed to deal with traffic through the outposts. If the distance to be traversed is considerable, he may be given an escort to it, or instructed to reach it by retiring and approaching by another route.

242. If signalled or ordered to retire, he must do so at once. If he does not do so within reasonable time he loses his inviolability, and is liable to be fired on or to be made prisoner. If he does retire, he may not be intentionally fired on or interfered with in any other way. A battle need not, however, be brought to a standstill on his account, and if he is incidentally killed or wounded no blame can be attached to the belligerent concerned.

Arrival in
enemy's
lines.

243. On arriving in the vicinity of the piquet or detached post, the parlementaire should dismount with his party, leave it to wait for him, and proceed alone on foot to the officer on duty and state his wishes. His attendants should not attempt to enter the lines with him, and they must obey any directions given to them by the enemy.

244. A parlementaire cannot, as a matter of strict right, claim to pass the outposts, nor can he demand to be conducted into the presence of the commanding officer. His message, if written, may be transferred to the officer receiving him, who should give a receipt for it; if it is verbal, the officer may demand that it should be reduced to writing, or delivered orally to such person as may be designated to receive it.

Courtesies.

245. The greatest courtesy should be observed on both sides. If there is any conversation, the subject of the military situation should not be touched on, and great care should be taken to avoid giving or asking for information. A parlementaire is not, however, forbidden to see, and afterwards to report, what his enemy does not hide.

246. The parlementaire should be treated with all the honours due to his rank, and, if thought desirable for his protection, a guard or escort should be provided for him.

247. Unless other instructions have been received, or the parlementaire has only a letter to deliver, the commander-in-chief should be informed through the ordinary channels so that the necessary orders may be obtained. The parlementaire must wait until these arrive.

Measures
of pre-
caution.

248. All measures necessary to prevent the parlementaire from taking advantage of his mission to obtain information are allowable.¹ Care should be taken that he and his party are prevented from communicating with anyone except the persons nominated to receive them. If permission is given for the parlementaire to enter the lines for the purpose of negotiation, or if the officer of the piquet or post, or any superior officer, thinks it desirable for any special reason to send him to the rear, he may, and invariably should, be blindfolded, and be taken to the destination by a circuitous route.

249. The parlementaire should be permitted to retire and return with the same formalities and precautions as on arrival.

¹ Hague Rules, 33. This applies equally to the members of the party who accompany him.

250. A commander has, by the Hague Rules, the right of detaining a parlementaire temporarily if the latter abuses his position.¹ In addition, a commander has, by a customary rule of International Law, the right to retain a parlementaire so long as circumstances require, if the latter has seen anything, knowledge of which might have ill consequences to the other army, or if his departure would have coincided with movements of troops whose destination or employment he might guess. Ch. XIV
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Detention of parlementaires.

251. A parlementaire loses his right of inviolability if it is proved in a positive and incontestable manner that he has taken advantage of his privileged position to provoke or commit an act of treason.² He can then be put on his trial. Misconduct of parlementaires.

252. Any measures taken against a parlementaire or his party should be reported at once to the enemy.

253. The improper use of the flag of truce is particularly forbidden.³ It constitutes an abuse of the flag of truce if the force which sends a parlementaire does not halt and cease fire whilst the parlementaire is approaching and is being received by the other party. Improper use of the white flag.

254. It further constitutes an abuse of the flag of truce if a white flag is made use of for the purpose of making the enemy believe that a parlementaire is about to be sent, when there is no such intention, and of carrying out operations under the protection granted by the enemy to the pretended flag of truce.

255. Every abuse of the flag of truce entitles the injured party to reprisals.⁴

(iii) *Armistices.*

256. During the continuance of war belligerent forces have sometimes occasion to suspend active operations within the whole or part of the region and theatre of war. The mutual agreements made for such temporary cessations of hostilities are known, in the wider sense of the term, as armistices. Although all armistices are essentially alike, in so far as they consist in cessation of hostilities, three different kinds must be distinguished, namely: suspensions of arms, general armistices, and partial armistices.⁵ Nature and kinds of armistices.

257. The Hague Rules⁶ distinguish only between general and local armistices, apparently comprising both suspensions of arms and partial armistices under the term "local armistices."

¹ Hague Rules, 33.

² Hague Rules, 34. Although a parlementaire cannot in strictness commit an act of treason as regards the enemy, the word treason has been maintained in the Hague Rules because in some penal codes the instigator of an act of treason is considered an accessory.—(Hague Conference, 1864, p. 147.) In the translation of art. 34 of the Hague Rules, *trahison* is, in error, rendered "treachery," not "treason." See App. 6 to this chapter.

³ Hague Rules, 23 (f). See para. 150.

⁴ See para. 234 above and para. 452 *et seq.*

⁵ Six expressions have in the past been used in the British Army to signify a cessation of hostilities falling short of peace:—Truce (as in the "History of the War in South Africa," Vol. II, p. 801), local truce, armistice, cessation of hostilities (as in the convention made after Majuba in 1851), cessation of arms (as in the negotiations preceding the surrender at Saratoga), and suspension of arms. Yet they do not appear to have been employed with any exactitude, and even a further expression, a "cease fire for three hours" has not been unknown. Other languages have no exact terminology either; the Germans speak of *Waffenruhe* and *Waffenstillstand*, without exactly distinguishing between them, and *Kriegsbruch*, 1902, uses the term *Waffenstillstand* only. The French instructions distinguish between *armistices* and *suspensions d'armes*. It has been found advisable to follow the practice of the more authoritative publicists in distinguishing three different kinds of armistices as in the text.

⁶ Art. 37.

Ch. XIV

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Suspensions
of arms.

258. A suspension of arms is essentially a military convention of very short duration, concluded between commanders of armies or detachments in order to arrange some pressing local interest: most frequently to bury the dead, or to collect and succour the wounded,¹ or sometimes to exchange prisoners, or to permit conferences, or to enable a commander to communicate with his Government or a superior in order to request or obtain orders.²

259. A suspension of arms applies only to the troops under the command of the officers who agree to it.

260. Suspensions of arms have nothing to do with the war generally, or with political purposes, since they only serve a pressing military interest of local importance. For this reason every commander of a force is, so far as the enemy is concerned, supposed to be competent to agree upon a suspension of arms, and no ratification on the part of superior officers or other authorities is required. Such an agreement is, therefore, in all circumstances and under all conditions binding, although a subordinate commander who enters upon it without instructions may be held responsible by his superior.

General
armistices.

261. A general armistice³ suspends the entire military and naval operations of the belligerents. It is a formal interruption of the war throughout the whole region and theatre of war, although for special reasons small parts of the belligerent forces and small parts in the theatre of war may be excluded from a general armistice.⁴ General armistices are of a combined political and military character. They usually precede the negotiations for peace, but may be concluded for other purposes.

262. Since a general armistice is of vital political importance only the belligerent Governments themselves, or their commanders-in-chief, are competent to agree upon it, and ratification is always necessary. Should an armistice which has been agreed upon by a commander-in-chief not find ratification on the part of his Government, hostilities can, after due notice to the enemy, at once be resumed without breach of faith.⁵

¹ E.g., at the siege of Port Arthur, authority was given to the divisional generals of the Japanese army to arrange suspensions of arms for the removal of the dead, if they judged fit, without reference to the commander-in-chief. (Ariga, 1908, p. 294.)

² Thus a suspension of arms was agreed upon at the siege of Belfort on 13th February, 1871, in order to allow the commandant to receive instructions from the French Government (see App. 16); and on 9th August, 1898, the Governor of Manila requested a suspension of arms from Admiral Dewey which would allow him to receive instructions from Madrid.

³ See Hague Rules, 37.

⁴ Thus the armistice of Portsmouth (U.S.A.), of 5th September, 1905, was a general one. The armistice of Paris, of 28th January, 1871, was likewise a general one, although military operations in the departments of the Doubs, the Jura, and the Côte d'Or were excluded. The assertion of *Kriegsbuch*, 1902 (p. 42), that this armistice was not a general one, cannot stand in face of the fact that the first words of art. 1 of the Convention concerning it stipulate it to be "an armistice general" (see Official Account of Franco-German War (German original), 2 Theil, 2 Band Anlage, No. 156).

⁵ The text is in distinct contrast to para. 32 of Chap. XIV of the fourth edition of this Manual. The section referred to ran as follows:—"A power to conclude an armistice is essential to the fulfilment by a commanding officer of his official duties, and therefore he is presumed to have had such a power delegated to him by the sovereign without any special command. This presumption of authority is so strong that it cannot be rebutted by any act of the sovereign. If an officer makes an armistice in disobedience to orders received from his sovereign he is punishable by his sovereign, but the sovereign is bound by the armistice, inasmuch as the enemy cannot be supposed to have known of the limitation of authority imposed on the officer." In face of the fact that theory and practice are united upon the rule that a general armistice concluded by a commander-in-chief requires ratification on the part of the Government, it is impossible to adhere to the opinion thus expressed.

General armistices are frequently arranged by diplomatic representatives.¹ Ch. XIV

263. A partial armistice suspends operations between certain considerable portions only of the belligerent forces, and within a fixed considerable zone only of the region and theatre of war. A partial armistice may be concluded for the military forces only, or for the naval forces only; for cessation of hostilities in the colonies only; for cessation of hostilities between two of the belligerents in case more than two are parties to the war. It is, however, always a condition that a considerable part of the forces and the region of war must be included, and that the cause for which it has been concluded is not only some pressing local interest, as in the case of a suspension of arms, but one of a more general character, such as a general exhaustion of the opposing belligerent forces in one part of the theatre of war; the outbreak of a virulent infectious disease in the opposing camps; an earthquake; or any other cause, the requirements of which cannot be satisfied by a mere suspension of arms, but do not demand a general armistice. Partial armistices.

264. Commanders-in-chief of the forces concerned are presumed to be competent to conclude partial armistices, and ratification on the part of their Governments is not required unless specially stipulated in the convention for the arrangement of a partial armistice. Commanders, however, are responsible to their own Governments in case they agree upon partial armistices without having special authorization for that purpose.

265. The rules which follow are common to suspensions of arms, general armistices, and partial armistices.²

266. An armistice is not a partial or temporary peace; it merely suspends hostilities without putting an end to the war, and only suspends them to the extent agreed upon by the commanders concerned. General rules regarding armistices.

267. If an officer makes an armistice containing stipulations too favourable to the enemy, the engagement cannot be invalidated on that account.

268. On the other hand, an officer who concludes an armistice can enter upon engagements with regard to such points only as are within the range of the conduct of the war itself. A commander cannot agree to the transfer of sovereignty over a territory, or stipulate for permanent rights to be conferred on the inhabitants of a country. Such powers are neither within the range of the conduct of the war nor necessary for the success of the operations of war.³

¹ The armistice at the close of the Franco-German War was concluded by diplomatic representatives—Count von Bismarck and Jules Favre; the general armistice at the close of the Russo-Japanese War was concluded at Portsmouth (U.S.A.) by diplomatic representatives, but the detailed conditions for the armistice in Manchuria were settled by the military authorities. The armistice with Germany in 1918 was signed by Marshal Foch and Admiral Wemyss on behalf of the Allied and Associated Powers, and by Herr Erzberger, Secretary of State, Count v. Oberndorff, Minister Plenipotentiary, Major-General v. Winterfeldt and Captain Vanselow (German Navy) on behalf of Germany. (See App. 17.)

² For the sake of brevity, the word "armistice" alone will, therefore, be used in the remainder of this chapter to include all three.

³ Thring, p. 226.

Ch. XIV

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Commence-
ment of
armistices.

269. An officer has likewise no power to agree to such a clause in an armistice as concerns troops or a district not under his command.¹

270. An armistice binds the contracting authorities from the date at which it is concluded. It must, however, be published in all the places to which it relates, for the purpose of controlling the acts of individuals. It is the duty of the contracting authorities, therefore, to notify an armistice officially and in good time to all commanders and to the troops. Hostilities are suspended immediately after the notification, or at a fixed time, as may be arranged.²

271. Should an officer, ignorant of the fact that an armistice has been made, commit an act of hostility by capturing towns or taking prisoners, he is not punishable for the act, although the State to which he belongs is bound to restore them. Nor can individuals, or the State, be held responsible for any deaths or damage arising out of such an act, unless they have been guilty of negligence or breach of faith in making known the armistice.

272. No one is bound to believe a notification by the enemy that an armistice has been concluded. History furnishes many an example giving warning against too easy credulity in this respect.³

Form of
armistices.

273. A special form for the convention of an armistice is not prescribed.⁴ Wherever possible the agreement should be in writing, in order to avoid complications and to have a record, should differences of opinion arise. Every endeavour should be made to give very great precision to the statement and to draft it with absolute clearness. As soon as it is signed, the stipulations of the convention for the armistice are absolutely binding upon the contracting parties, and must be observed with the utmost

¹ General armistices being of vital political importance, belligerents may arrange any matter they think fit in them, as, for instance, evacuation of certain territory, surrender of a certain fortress, and the like. Thus the Paris armistice, of 28th January, 1871, which was granted to the Government of National Defence in order to permit it to hold elections and ascertain whether the country desired that the war should continue, or if not, on what conditions peace should be made, contained the conditions of the surrender of Paris. The armistice proposed in Korea at the close of the Russo-Japanese War contained a clause fixing the evacuation of certain territory.

² The armistice between the Allies and Germany in 1918 (see App. 17) came into force at the eleventh hour of the eleventh day of the eleventh month.

³ Such an example is, for instance, the approach by the French to the bridge over the Danube at Florisdorf on 13th November, 1805, under pretence that there was a suspension of arms pending completion of the negotiations for peace (*Mémoires du Général Rapp*, p. 89). Another example is the following:—Blücher, with 5,000 men, escaped from General Lasalle at Weissensee, on 16th October, 1806, by sending a parlementaire to assure him that a six weeks' armistice had been concluded, which was not the case. (Despatch No. 2567, with Lasalle's report, Murat to Napoleon, in *Lettres et documents pour servir à l'histoire de Joachim Murat*, Vol. IV.) Notifications have, however, erroneously been made in perfect good faith. Thus, during the operations between the troops commanded by General von Mantoufel and General Clinchant in the south-east of France on the 29th January, 1871, a French general staff officer handed to the commander of the 14th German Division a despatch from General Clinchant, to the effect that an armistice for twenty-one days had been concluded on the 27th January, and that this was to be notified to the enemy. No armistice was concluded until the 28th, and then the operations of these particular troops were excluded from its effects. (*Kriegsbuch*, 1902, p. 43.)

⁴ The armistices agreed on by the Japanese and Russian plenipotentiaries at Portsmouth (U.S.A.) on 8th September, 1905, the protocol of the conditions of the armistice concluded in Manchuria on 13th September, 1905, and the convention for the suspension of arms at the siege of Belfort, 13th February, 1871, as well as certain forms drawn up by Lord Thring, are given for reference in App. 10 to 16 at the end of this chapter. The armistice agreed upon between the Allies and Germany in 1918, dated the 11th November, 1918, is set out in App. 17.

strictness. It is of the utmost importance that the meaning of the instrument should in no way be interpreted arbitrarily by either party.¹ Ch. XIV
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274. It is advisable that the convention for an armistice should be drawn up in duplicate in the languages of both belligerents, each side retaining a copy in each language.²

275. The duration of an armistice may be for a definite or indefinite time, and with or without a further period of notice of expiration. Duration
of
armistices.

276. If its duration is indefinite the belligerent parties may resume operations at any time,³ provided always that the enemy be notified so that the recommencement of hostilities may not be a surprise.⁴

277. If the duration of an armistice is definite and fixed, hostilities may be commenced without previous notice at the moment it expires.

278. An armistice commences, unless another time is expressly mentioned, at the moment it is signed; the date and hour of the completion of signing should therefore be recorded on it.

279. In the case of a short armistice the number of hours should be stated.⁵ If an armistice is agreed on for a number of days it terminates at midnight of the last day.⁶ It is always necessary, in order to prevent misunderstandings, to state that the armistice commences at a certain hour on one day and ends at a certain hour on another day, for otherwise the commencement and termination are uncertain.⁷

280. It is advisable, especially in the case of a short armistice, for the belligerents to agree to indicate the commencement of the cessation of hostilities by some signal; for example, by each party hoisting a flag, and keeping the flags hoisted until the termination of the armistice, and lowering them simultaneously.

¹ The dangers of indefiniteness in matters connected with an armistice may be illustrated by the incident at the attack on Rome in 1848. On 17th May, 1848, a verbal arrangement for an armistice without fixed details was made by M. de Lescaups, acting for the French, and the Roman authorities. On the 1st June, General Oudinot, the French Commander, wrote to General Rosselli, commanding in Rome, that he had received instructions to recommence operations at once. But in consideration of the French residents in Rome, he continued, "je diffère l'attaque de la place jusqu'à lundi matin" (5th June). The Roman officers interpreted this to mean that the French commander would not commit any hostile act until the morning of the 5th June; but he took it to signify merely that he would not attack the permanent fortifications of Rome until that time, and was free to commence operations anywhere short of them. Consequently, in the early hours of the 3rd June, the French surprised and captured two villas in the outpost position covering the encients of Rome, and thereby determined almost without a shot the fall of the city. (*Garibaldi's Defence of the Roman Republic*, by G. M. Trevelyan, 1907, pp. 344, 345.)

² Cases have occurred in which belligerents have agreed to use the language of a particular nation instead of their own.

³ Hague Rules, 36.

⁴ Hague Rules, 36. This says, "provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice." It might possibly be interpreted to mean that if no time is mentioned hostilities may be resumed at any moment; but such an interpretation would not be admissible.

⁵ An armistice made for 24 hours on the 1st January at 6 p.m. ends on 2nd January at 6 p.m.

⁶ Thus an armistice concluded at any hour on 1st January for 21 days expires at midnight of the 21st/22nd January. An armistice concluded for 21 complete days would terminate at the same hour as the commencement after the number of complete days had elapsed.

⁷ Supposing an armistice is made from the 1st May to the 1st August, without mentioning hours, questions have been raised whether the days named are both included or both excluded. The usual mode of reckoning time in England in legal documents is to include the first day and to exclude the last. Consequently in the above case, according to English law, the truce begins at the moment on which the 30th April ends and ceases at the moment at which the 1st August begins, that is, midnight 31st July/1st August. (Taring, p. 299.) Some publicists, however, exclude the first day and include the last.

Ch. XIV

Actions
forbidden
and per-
mitted
during
armistices.

281. An armistice may be prolonged under the same conditions as it was concluded.

282. During an armistice the belligerent forces which it affects must of course cease fire; they must not attempt to gain ground; in a siege they must not push on with parallel and saps. In a word, all offensive measures of whatever nature, and any action or movements which the enemy might have been able to prevent, are forbidden. The belligerent forces are, however, permitted to do anything which will tend to the improvement of the situation after the expiration of the armistice and assist the continuation of the struggle, unless they are expressly prohibited by the text or sense of the agreement. For instance, troops may be trained, new forces recruited, arms and ammunition manufactured, reinforcements and supplies brought up,¹ and troops shifted from one position to another inside the lines.

283. The question what defensive measures—for instance, what repairs of fortifications—may without perfidy be undertaken during an armistice has been much debated, and is one on which various opinions have been held. It is best settled by a definite arrangement.² As it is impossible to check what goes on within the enemy's territory behind his lines, it is useless to impose elaborate conditions, the execution of which cannot be verified.

284. If an armistice is declared without conditions, nothing more than a total cessation of hostilities along the front of both positions is required.

285. The conclusion of an armistice gives a besieged fortress no right to introduce provisions either for the garrison or civil population. It may, however, be arranged to supply them so that at the end of the armistice the forces are in the same position as at the beginning.³

286. The situation in occupied territory⁴ remains the same during an armistice as during hostilities.

Prisoners.

287. It is usual to return any prisoners or property that may be captured in any action that takes place by ignorance or accident after the conclusion of an armistice.⁵ There is no obligation to return deserters who come over during an armistice. Although

¹ In the armistice concluded at Portsmouth (U.S.A.) between Japan and Russia, it was stated in art. 4 that "during the armistice no reinforcement may be sent to the theatre of war. Those who are on the way from Japan may not be sent north of Mukden, and those on the way from Russia may not be sent south of Harbin." (Ariga, 1906, p. 548.)

² In drawing up the protocol of the armistice concluded in Manchuria on the 16th September, 1905, it was proposed by the Russian envoy to forbid all "acts of hostility." This was considered too vague by the Japanese, and to avoid all difficulty it was arranged that each adversary should do what he liked inside his front line, except acts of combat and the sending of reinforcements (as mentioned in the last footnote). All acts, offensive and defensive, were permitted so long as they did not touch the enemy's line. In the suspension of arms concluded at Belfort on the 13th February, 1871, it was merely agreed that "the two parties will rest in their present positions." In the armistice after Majuba, in 1881, it was agreed that "each side promises to make no forward movement in advance of its present position, neither by armed parties nor by scouts; but each retains its liberty of movement within its own lines."

³ The armistice proposed at Paris in November, 1870, was not concluded, as the Germans refused to permit revictualment. The leading case is the armistice of Treviso, 1801, in which it was permitted to send provisions to the garrison at Mantua every ten days. The amount was fixed at 15,000 rations of flour and 1,500 of forage, and other food in proportion. The inhabitants were allowed to receive the necessary provisions from time to time, but the French army was left free to take such measures as should be judged necessary to prevent the quantity exceeding the estimated daily consumption in proportion to the population.

⁴ For definition of "occupied territory," see para. 341 below.

⁵ See, however, para. 300 below.

to receive and harbour them has by some writers been declared to be an implied act of hostility, the practice of war takes a contrary view. Ch. XIV
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288. It is not necessary to discontinue espionage during an armistice,¹ but the risks incurred by the perpetrators are the same as at other times. Espionage.

289. In the terms of the armistice there should be fixed a neutral zone, between so-called lines of demarcation, sufficiently wide to prevent any sort of conflict between the troops. No persons having the least connection with the armies should be permitted to enter this zone on any pretext, except as parlementaires or their parties, or by agreement for collection of dead and wounded.² It must, however, be emphasized that such neutral zone does not exist unless it be specially stipulated by the armistice. Neutral zone.

290. In order to create a zone it may be necessary for one side or both sides to evacuate territory.³

291. A road or roads should be fixed by which all communications between the two armies must pass during the armistice. Intercourse during armistices.

292. As a state of war continues to exist during an armistice, and as the goings and comings of the inhabitants in the positions of the two armies, and in the neutral zone, may offer inconvenience and facilitate espionage, it rests entirely with the contracting parties to settle, in the terms of the armistice, the relations which may be allowed in the theatre of war with, and between, the civil populations.⁴

293. If nothing is said about inhabitants, each party has an absolute right to settle the question according to his own convenience in the territory over which he has power. Usually the intercourse between the two territories remains suspended the same as during actual hostilities.

294. Any serious violation of an armistice by one of the parties gives the other party the right of denouncing it, and in cases of urgency hostilities can even be recommenced at once,⁵ although a certain time between giving notice of cessation and resumption of hostilities may have been stipulated for. The violation must, however, be a grave one to justify a denunciation, and still graver to authorise an immediate resumption of hostilities.⁶ Violations of armistices.

295. A deliberate advance or pushing on of works beyond the line agreed upon,⁷ the seizure of any point outside the lines, or the utilization of the occasion to withdraw troops from an

¹ For example, it is stated in General Baron von Muffling's *Aus meinem Leben* (Yorke's translation, p. 299) that Blücher's system of espionage continued at work during the armistice of August, 1813.

² In the case of a suspension of arms for this purpose it may be sufficient to fix a line instead of a zone. It is generally desirable to define the zone or line on maps.

³ This was proposed in the armistice between the Japanese and Russians in Korea. For the terms of the armistice with Germany (1918), see App. 17.

⁴ Hague Rules, 30.

⁵ Hague Rules, 40.

⁶ Hague Conference, 1864, p. 148.

⁷ Thus, on the 13th August, 1813, during the armistice which was to expire on the 17th August, Blücher received information from various commanders that French patrols had entered the neutral zone, and that requisitions were being carried out in it. He considered himself absolved from respecting it, and issued orders to advance into it that evening, but not to cross the enemy's line unless attacked (*Herbetsfeldzug*, 1813, by Major Friedrich, p. 299).

Ch. XIV unfavourable position commanded by the enemy,¹ or any violation of an express condition would, as a rule, constitute a grave breach.

296. It would be perfidy to denounce an armistice for a motive or under a pretext more or less specious and to surprise the enemy without giving him time to put himself on his guard.

297. Unless there be great urgency, there should always be a delay between denunciation and resumption of hostilities.

298. The existence of an armistice is no reason for the relaxation of vigilance in the service of protection, or of the readiness of troops for action, or for exhibiting positions to the enemy which he could not detect during combat.²

299. The violation of the terms of an armistice by individuals does not entitle the injured party to do more than demand the punishment of the offenders and compensation for the losses sustained, if any.³ There is no justification in such circumstances for a renewal of hostilities, unless the behaviour of these individuals is approved of or sanctioned by their superiors. If, however, the violation of the armistice by individuals acting on their own initiative be repeated, and it should become evident that the adversary is unable to repress such abuses, there might be no other way, after proper protest, to obtain redress except by denouncing the armistice.

300. Soldiers captured in the act of breaking an armistice must be treated as prisoners of war, since the responsibility for such a violation lies not with them but with the commander.⁴ Should an individual soldier be captured who without orders committed a hostile act during an armistice, he may conveniently be handed over to his commander for punishment.

(iv) *Capitulations.*

Nature of
capitulations.

301. Capitulations are agreements entered into between the commanders of armed forces of belligerents concerning the terms of surrender of a body of troops, a fortress or other defended place, or of a particular district of the theatre of war. Surrenders of territory are sometimes designated as evacuations.⁵

302. The commanders of armed forces are presumed to be invested with powers to agree to capitulations, but they are responsible to their Governments should they exercise these powers in cases other than those of necessity.⁶

¹ The withdrawal of troops who are out of sight of the enemy is not perfidy, and may in certain circumstances be considered a ruse. Should knowledge of the move come to notice, it would not as a rule afford cause for immediate resumption of hostilities unless specially forbidden in the agreement. If the situation is such that a withdrawal unhindered (as at Mukden, see para. 151, footnote) would be of great advantage to the enemy, the armistice should be refused.

² At the second battle of Fredericksburg, 5th May, 1863, the Federals discovered the weakness of General Barksdale's force during a suspension of arms to collect the wounded after the second repulse. This knowledge gave them courage to persevere and succeed. (Military Memoirs of a Confederate, by General E. P. Alexander, p. 351.)

³ In the suspension of arms at Wynne's Hill, during the relief of Ladysmith, many of the burghers of the South African Republic stood up and thus disclosed the position of their trenches, which until then had not been located by their opponents. (History of the South African War, Vol. II, p. 602.)

⁴ Hague Rules, 41.

⁵ See, however, para. 287, above.

⁶ E.g., the evacuation of Portugal by the French under the terms of the Convention of Cintra, 1808.

⁷ See para. 310 below.

The punishments for shamefully delivering up any garrison, place, post, &c., or doing any act calculated to imperil the success of H.M. forces (which might include granting too lenient terms to the enemy), are dealt with in the Army Act, s. 4.

303. Capitulations are, both in character and purpose, purely and exclusively military agreements, involving the abandonment of resistance by the portion of the enemy's forces which capitulates, and, as a rule, their becoming prisoners of war. Capitulations should therefore contain nothing but military stipulations. The questions at issue in the case of the surrender are the immediate possession of the place and the fate of the troops. The capitulation must therefore be limited to these questions in their local military sense, but conditions concerning the inhabitants and their privileges may nevertheless be inserted.¹ Ch. XIV

304. Stipulations in a capitulation to the effect that the surrendering troops shall never again bear arms against the forces of the conquering state, or that the sovereignty of a place or territory shall change hands would be invalid, inasmuch as power for such extensive purposes belongs only to the sovereign power of the state and cannot ever be presumed to be delegated to commanders.² Such stipulations can become valid only on condition that they are ratified by the political authorities of both belligerents.³ Irregular stipulations.

305. The surrender of a place or force may be arranged by the political authorities of two states without the intervention of the military authorities⁴; in this case the convention may contain other than military stipulations. Competent authorities.

306. The competence of a commander to accept conditions of capitulation is limited to the troops immediately under his command and does not necessarily extend to detached forces, or to all the forts of a fortress. To avoid misunderstandings, capitulations should invariably state to what extent detached forces and outlying defences are included in the surrender of the main body.⁵

307. Similarly the competence of a commander to grant conditions of capitulation is limited to those the fulfilment of which depends entirely upon the forces under his command.⁶ If he agrees, without the instructions of his Government, to conditions the granting of which is not implied in his powers, or the fulfilment of which depends upon forces other than his own, and upon superior officers, they may be repudiated.

¹ See para. 340 below.

² Thiering, p. 301.

³ The Convention of the capitulation of Verdun, 8th November, 1870, stipulated in art. 1 that the surrender was made on the express condition of the retrocession of the fortress and town to France at the conclusion of peace. This exceeded the powers of the contracting commanders, and created no obligation for their respective governments.

The text of the Convention is given in von Tiedemann's *Festungsbrieg*, 1870-1, p. 129. It is not given in the German official history of the war.

⁴ As, for instance, the surrender of the forts and garrison of Paris, which was included in the general armistice of the 28th January, 1871, signed by Count Bismarck and M. Jules Favre.

⁵ Hague Conference, 1907, *Actes*, Vol. III, p. 25. The inclusion of Vedel's division and other French troops in Andalusia, in the capitulation of Dupont at Baylen, 1808, is an example of the practice.

⁶ Thus, the Spanish authorities who signed the Convention of Andujar (Baylen) exceeded their powers by promising to send Dupont's army home by water. As the British fleet commanded the sea and was blockading Rochefort, the port which the capitulation assigned for the landing of the captive army, the concurrence of the British authorities was necessary before the Spaniards could carry out the agreement.

Ch. XIV 308. Great care must therefore be taken before concluding any capitulation to ascertain that the competence of the opposing commander to complete the convention is unequivocal.¹

309. Should one of the parties insist on the condition that the consent of the sovereign or his Government must be obtained, this ought to be definitely stated in the convention. In these circumstances the party granting such conditions should be careful to provide against any disadvantage resulting from non-ratification.

310. Abuse by a commander of the power vested in him does not of itself render invalid any compact which he may make with the enemy. If, however, he surrenders when he might have continued the defence, or upon worse terms than he might have made, or if he grants too lenient terms, he is accountable to his own Government for his misconduct.²

Surrenders.

311. As capitulation means the act of surrendering to an enemy upon stipulated terms, individual soldiers or parties of soldiers who throw down their arms and surrender do not capitulate, but surrender purely and simply. Yet it may occur that small detached parties, or even individual soldiers, intend to surrender upon stipulated terms; in such a situation they are necessarily left to their own discretion, and the senior of the party or the individual, so far as concerns the party or his own person, may do everything which a commander might do with respect to himself and the troops under his command.

Negotiations.

312. Negotiations for surrender may emanate from either side. The intention to surrender is frequently indicated by the hoisting of a white flag, and parlementaires are then sent to arrange for a suspension of arms and draw up and sign the capitulation.³ In many cases, however, the negotiations have been carried on without

¹ The capitulation of El Arish of the 24th of January, 1800, made between the French General Kléber and the Turkish Grand Vizier, and approved by the British Admiral, Sir Sydney Smith, is an illustration of an invalid convention. It was agreed that the French Army should evacuate Egypt, and be transported to France in vessels provided by the Turkish Government. Sir Sydney Smith was, however, only a local commander, and junior to Lord Keith, commanding the British Mediterranean fleet. The latter had on the 8th January, 1800, received from its Government secret orders not to agree to any capitulation stipulating the free return of Kléber's troops to France. Yet Sir Sydney Smith did not receive instructions based on these orders until the 22nd of February, after he had approved of the terms. General Kléber was notified by Lord Keith of the orders of the British Government, and he recommenced hostilities. The British Government, however, on being informed of Sir Sydney Smith's action, though disapproving of it, confirmed the convention on the 28th March, 1800. Menou, the successor of Kléber who had meantime been assassinated by an Arab, refused, as hostilities had been recommenced, to carry out the original convention. (*Kléber, as vis, as correspondence*, p. 444 *et seq.* Alison, *History of Europe*, chapter XXXIV).

The capitulation of Dresden, agreed between General Gouvion St. Cyr and Generals Count Kienau and Tolstol, on the 11th November, 1813, which permitted the French garrison to return to France, there to await exchange, was invalidated on the 19th November by Prince Schwarzenburg, on the grounds that it was not approved of by the allied sovereigns; Kienau and Tolstol were removed from their commands, and the French became prisoners of war. A similar fate befell the capitulation of Dantzic, agreed between General Rapp and the Duke of Wurtemberg on the 29th November, 1813. Owing to the ease and rapidity of communication such mistakes should not be possible in modern warfare.

² See para. 302 above.

Marshal Bazaine was tried and convicted for the capitulation of Metz. The granting of the Convention of Cintra to Marshal Junot in 1808 was the subject of a court of inquiry.

³ See para. 224.

At Sedan, 1870, and at Manila, 1898, when the white flag was hoisted on the walls by the defenders, parlementaires were sent from the attacking forces. Official account of the Franco-German War, Part I, Vol. II, p. 402, and Report of General Wesley Merritt (Report of Major-General Commanding the Army), 1898, p. 43.

The question of the significance of the white flag and the action to be taken when it is exhibited has been discussed in para. 229 *et seq.*

interruption of hostilities, and the white flag has been hoisted subsequently by arrangement as the sign of surrender. Ch. XIV

313. No rules exist regarding the form of capitulations. They may therefore be concluded either orally or in writing, but for the reasons given in the section on armistices,¹ it is most desirable, except in the case of unconditional surrenders, that they should be in writing. In the convention every condition, including the time and manner of execution, must be laid down in the most precise and unequivocal words. Usually the terms are given in a number of articles, while the details of execution and local interests are dealt with in an appendix.² Form of capitulations.

314. In the terms of a capitulation the fate of the capitulating troops or of the surrendered fortress may be settled in the most varied manner, from unconditional surrender³ to mere evacuation of territory under honourable conditions.

315. The expression "with the honours of war," which is sometimes used in capitulations, is usually construed to include the right to march with colours displayed, drums beating, bayonets fixed, and swords drawn; but the details of such arrangements should be precisely stated in the articles.⁴ Honours of war.

316. Even if a capitulation is unconditional, the victor has nowadays no longer the power of life and death over his prisoners, and is not absolved from observing the laws of war towards them. Unconditional surrenders.

317. The Hague Rules only contain one article on the subject of capitulations, and this enacts that they must take into account the rules of military honour.⁵ The Hague Rules require, therefore, supplementing by the customary rules of warfare. Military honour.

318. The principal questions to be settled in the terms of a capitulation are:—the fate of the capitulating troops and of any persons who may have assisted them, the handing over of material, the disarming of the troops, the pointing out of the mine defences, the evacuation and taking possession of the place, and the arrangements for the care of the sick and wounded. Usually the troops are formally declared to be prisoners of war, but the surrender may be made conditional on the situation being altered by the arrival of a relieving force within a certain period of time.⁶ Matters requiring mention.

¹ See para. 273 above. The terms of the capitulation of Port Arthur are given in App. 18 at the end of this chapter.

² E.g., in the capitulations of Metz and Port Arthur.

The last article in the capitulation of Verdun, 1870, was the following:—"Special points which may require settlement shall be arranged for in an appendix which shall have the same force as the present convention."

³ As in the case of Plaszburg on the 12th December, 1870. After a four months' siege, provisions being exhausted, Commandant Tallant destroyed his artillery, rifles and ammunition, and everything that the enemy could utilize for the purpose of war or exhibit as a trophy, and then informed the enemy that he surrendered at discretion. Other instances are the surrender of Osman Pasha after the final sortie from Plevna on the 10th December, 1877, and of General Cronje at Paardeburg, in February, 1900.

⁴ The most favourable terms in the Franco-German War were granted to the garrison of Belfort under Colonel Denfert-Rochereau, who surrendered under instructions from his Government.

⁵ In recognition of their brave defence the garrison are allowed free withdrawal with the honours of war. They will take away the eagles, colours, arms, horses, carriages, and the military telegraph apparatus, as also the baggage of the officers and kits of the men and the archives of the fortress." (Official Account of the Franco-German War, Part V, Vol. III, App. CLXXII.)

⁶ Hague Rules, 35 (first paragraph).

⁷ As at Ulm, in 1805, art. 5 of the terms of surrender, which reads:—"If before midnight 25th October (inclusive) Austrian or Russian troops relieve the town from any side or gate the garrison may leave freely," &c.

Ch. XIV 319. Provision may be made that the surrendering force shall not in every detail be treated as prisoners of war—for instance, that officers shall be allowed to retain their side arms.¹ It may also be stipulated that the officers or soldiers shall be released on parole²; that officers shall be permitted to retain the services of servants; that inhabitants who have assisted the troops as combatants or otherwise shall not be punished, and shall be released on giving up their arms³; that civil officials are free to leave; that civil and military archives shall remain in custody of the officials of the vanquished party. When the evacuation or surrender of territory is the subject of the convention it may be desirable to make special provision respecting the inhabitants.⁴

320. It may be necessary to arrange for taking over the civil government and government property, to fix the exact time of the transfer of authority, to arrange for lists of the prisoners to be made and for the repatriation of prisoners, and to stipulate that certain forts or positions shall be handed over at once as a pledge of the fulfilment of the capitulation.⁵

Handing over.

321. The handing over of forts, arms, and material, and the transfer of authority can best be arranged by committees composed of members of both armies.⁶

Damage and destruction after capitulation.

322. It is a customary rule of International Law that as soon as a capitulation has been signed the vanquished commander must abstain from all destruction, damage, and injury of the works, war material, and stores, unless he is entitled to interfere with them by

¹ It should be distinctly stated whether or not this allows them to wear their swords at all times during captivity.

² It is very undesirable to ask for favourable terms for officers which do not apply to the men.

³ This was done at Metz and at Port Arthur. As regards the private property of prisoners of war which is not portable, see para. 63 *ante*.

⁴ The capitulation of the Cape of Good Hope to the British in 1795 provided for the prerogatives enjoyed by the inhabitants of the Colony, the recognition of the paper currency, the maintenance of public worship, the immunity of private and public property, and the modification of taxation. (Bulletins of the Campaign, 1795, pp. 160-1.)

⁵ As was done at the capitulations of Paris in 1871, and Port Arthur in 1904.

⁶ In the appendix to the terms of surrender of Port Arthur, four committees were appointed, each to secure the execution of a particular article of the Convention. The first committee dealt with arms, ammunition, and material of war, and was sub-divided into four sub-committees which settled respectively: (i) forts, batteries, arms, ammunition, &c., of the land forces; (ii) war vessels and shipping; (iii) supplies; (iv) removal of dangerous objects. The second committee dealt with personnel; the third with the sick and wounded; and the fourth with the civil administration, finances, and the civil inhabitants. (Arms, 1906, pp. 310-12.)

The terms of the capitulation of Port Arthur, being drafted in accordance with the best precedents, are given in App. 18 in the original English text. The following conventions for capitulation are, among others, worthy of study:—
Saratoga, 1777 (See Trevelyan's *American Revolution*, Part III, p. 224 *et seq.*)

Cape of Good Hope, 1795 (See Bulletins from the London Gazette, 1795, p. 160.)
El Arah, 1806 (See Kitcher's *Correspondence*, by Paquet, 1881, p. 421.)
Ulm, 1806 (See Alomberto and Colin's *Campagne de 1806 en Allemagne*, p. 351 *et seq.*)

Cintra, 1806 (See Oman's *Peninsular War*, Vol. I, p. 625.)
Baylen, 1806 (See Oman's *Peninsular War*, Vol. I, p. 621.)
Dresden, 1813 (See *Mémoires de Gouvion St. Cyr*, Vol. IV, p. 484 *et seq.*)
Dantzic, 1813 (See *Mémoires du Général Rapp*, p. 484 *et seq.*)

Sedan, 1870 }
Strasbourg, 1870 }
Metz, 1870 } (See Official Account of the Franco-German War.)
Paris, Belfort, 1871 }

Potchefstroom, 1881 (See Correspondence respecting affairs of South Africa, C.2950. 1881, Nos. 50, 63.)

Manila, 1898 (See Annual Report of the U.S.A. War Department for year ending 30th June, 1898, pp. 43 and 49.)

the conditions of surrender.¹ Nothing, however, prevents a commander who intends to surrender from destroying fortifications, war material and stores, the possession of which might assist the enemy, providing he does so before signing the capitulation.²

Ch. XIV

323. Once the terms of capitulation are settled they must be scrupulously observed by both parties³; a serious breach of the accepted conditions of a capitulation entitles the adversary to an immediate renewal of hostilities without further notice.

Breaches of capitulation.

324. A capitulation may be denounced if a party to it formally refuses to execute any clause which has been agreed upon, and it may be cancelled if it was obtained by a breach of faith.⁴ It may not, however, be annulled because one of the parties has been induced to agree to it by ruse, or from motives for which there is no justification, or by his own incapacity or feebleness.

Denunciations.

325. A capitulation which took place after a general armistice has been agreed upon, and of which the parties to the capitulation had had no knowledge, is null and void, unless the armistice stipulated cessation of hostilities from the time when notification reaches the different forces concerned, and not from the date of signature.⁵

Annulment.

(v) *Passports, Safe-conducts, Safeguards, and Cartels.*

326. A passport is a document given by a commander of belligerent forces to enemy subjects or others to enable them, within a limited or unlimited period, to travel free and unmolested within the district occupied by his forces. The passport may permit the bearer to travel either alone or accompanied by friends, and with or without servants and effects.

Passports.

327. Passports may be granted by a commander on his own initiative, or by arrangement with the enemy or with a neutral Power, and only if granted by such arrangement do they come within the scope of International Law.

¹ Art. 144 of the Military Code of the United States expressly denies to the captulator the right "to demolish, destroy, or injure the works, arms, or ammunition in his possession during the time which elapses between the signing and the execution of the capitulation."

² The court of inquiry on the surrender of Metz blamed Marshal Bazaine for not having destroyed his material of war before signing the capitulation, as it proved of service to the enemy in continuing the war. *Procès Bazaine*, p. 11. See para. 314, footnote above, for Commandant Tallant's action at Pfalzburg in 1870.

³ Hague Rules, 35.

⁴ Such deliberate violations of the terms of capitulation as were committed by the Government of the United States with regard to the British troops who surrendered at Saratoga in 1777, by the Southern Italian Bourbons with regard to the garrisons of the Neapolitan citadels in 1797, and the Junta of Seville with regard to the French troops who surrendered at Baylen in 1808, are unlikely to be repeated.

⁵ The capitulation of Potchefstroom in 1881, which was obtained by a "breach of faith" on the part of Commandant Cronje in failing to notify the garrison the conclusion of a cessation of hostilities as agreed on by the two commanders-in-chief, was annulled by desire of the Boer Government as soon as it was notified to them, and authority was given to re-garrison the place. (See the letter of General Joubert and the joint letter of Messrs. Kruger, Pretorius, and Joubert to Sir Evelyn Wood in Correspondence respecting affairs of South Africa (C.2950), 1881, Nos. 50 and 63.)

⁶ The capitulation of Manila was signed by the local commanders-in-chief on the 14th August, 1898, but a general armistice had been agreed to by the Governments of Spain and the United States on the 12th August. Notice of this, however, did not reach the Philippines until the 16th August, owing to the interruption of the cable. The Spaniards contended that the capitulation had become void, but this the United States Government denied, maintaining that the protocol concerning the armistice had stipulated suspension of hostilities, not from the date of signature, but from the date of receipt of notification on the part of the respective commanders. (See Moore's Digest, 1906, Vol. VII, p. 324.)

Ch. XIV

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Safe-con-
ducts.

328. A safe-conduct is a document given by a commander of belligerent forces to enemy subjects or others authorising them, during a limited or unlimited period, to go into places which they could not reach without coming into collision with armed forces actively operating against the enemy—for instance, to visit or leave a besieged town.

329. A safe-conduct may, however, also be given to goods, and it comprises then the permission for such goods to be carried unmolested from or to a certain place—for instance, from or into a besieged town. Like passports, safe-conducts only fall within the scope of International Law when granted by arrangement with the enemy or a neutral Power.

Passes and
permits.

330. The expressions "pass" and "permit" have in recent years been employed in the place of the older terms with, as a rule, the same distinction, although "pass" has sometimes had the signification of a general permission to do certain things, while "permit" has been confined to permission to do a particular act.

331. The exact term used, however, is of no great importance, provided that every particular with regard to the extent of the indulgences conferred by the document is enumerated with precision in it. The person to whom it is granted is inviolable as long and in so far as he strictly complies with the conditions imposed upon him.

332. Both passports (passes) and safe-conducts (permits) for individuals are non-transferable. On the other hand, safe-conducts (permits) for goods, though they only apply to the articles named in them, may be transferred from one person to another, provided they do not designate the individual who is to introduce or remove the goods.

Revocation
and
forfeiture.

333. Passports, as well as safe-conducts, may be revoked for good reasons of military expediency by the authority who issued them or his superior. Until revoked they are binding not only upon the person who granted them, but also upon his successors. The reasons for revocation need not be given, but revocation must never be used as a means of securing the person of the holder, who is always to be allowed to withdraw in safety. Such passports and safe-conducts as have been granted only for a limited time cease to be available with the expiration of the period designated.

334. If the holder commits any wrongful act, such as using the opportunity given by a passport or safe-conduct to obtain military information, or exceeds the terms of indulgence, the privilege may be withdrawn. Further, if the holder is considered by any person in authority to be behaving in a suspicious or irregular manner he may be arrested and the case investigated.

Safeguards.

335. A safeguard is a party of soldiers posted or detailed by a commanding officer for the purpose of protecting some person or persons, or a particular village, mansion, or other property. Safeguards, like passports and safe-conducts, only fall within the scope of International Law when posted by arrangement with the enemy.

336. Soldiers on duty as safeguards are inviolable on the part of the enemy, and it is customary, if they fall into his hands, to send them back to their army as soon as military exigencies

permit. Enemy safeguards which have been posted without previous arrangement ought, nevertheless, to be treated in the same way, provided that the circumstances of the case prove that their posting was *bona fide*. Ch. XIV

337. The term "safeguard" is also employed to mean a written order left by an advancing commander with an enemy subject, or posted upon enemy property, requesting the succeeding commander to grant protection to the individual or property concerned.

338. A cartel, in the wider sense of the term, is used to signify Cartels. a convention concluded between belligerents for the purpose of permitting certain kinds of non-hostile intercourse which would otherwise be prevented by the conditions of war. For instance, communication by post, trade in certain commodities, and such like, may be agreed upon by a cartel. As used in a strictly military sense, however, a cartel means an agreement for the exchange of prisoners of war.¹

339. A cartel ship is a vessel engaged in the exchange of Cartel ships. prisoners or in carrying official communications to the enemy. Such a ship is considered inviolable, but must not engage in any hostilities or carry any implements of war except a signal gun.²

VIII.—OCCUPATION OF ENEMY TERRITORY.

(i) *Establishment of Occupation.*

340. The military occupation of enemy territory initiates a General effects. special relationship between the occupant and the population³ involving on each side certain rights and duties. It affects the general administration of the territory, the persons of the inhabitants, both private and public property, and has various other grave consequences. The subject is legislated for in the Hague Rules, articles 42 to 56.

341. According to these Rules "Territory is considered Definition. occupied when actually placed under the authority of the hostile army. The occupation extends only to the territories where such authority has been established and is in a position to assert itself."⁴

342. This definition is not precise, but it is as precise as a legal definition of such a kind of fact can be, and there should, in practice, be no great difficulty in understanding it.

¹ See para. 110g.

² The word "cartel" has been used for the ship itself, as in the following extract from the *Times* of 17th November, 1807, reprinted on 17th November, 1807:—

"After the recent declaration in the Paris papers that no further intercourse with England could be on any account permitted, and that even the sailing of the Carrels between Morlaix and Plymouth would be prohibited, the town was somewhat astonished yesterday by the report of the arrival of a French Flag of Truce in the Downs. A schooner, bearing the National flag, was said to have passed by Dover, at three o'clock on Sunday under a press of sail, and came into the Downs soon after, accompanied by the 'Calypso' sloop of war. The Deal letters of yesterday afford no satisfactory information upon this subject."

³ That is, persons who do not take an active part in the military operations, and are not attached to the army, in particular women and children, the aged, workmen, and cultivators of the soil.

⁴ Hague Rules, 42.

Ch. XIV

Invasion.

343. Invasion is not necessarily occupation, although as a rule occupation will be coincident with invasion.¹ Reconnoitring parties, flank guards, raiding or flying columns, and similar bodies which move on or retire after carrying out their special mission, cannot, however, be said to occupy the country which they have traversed. They certainly occupy every locality of which they are in possession and where they set up a temporary administration, but such occupation ceases the moment they move on or retire.²

Occupation must be effective.

344. Occupation must be actual and effective, that is, there must be more than a mere declaration or proclamation that possession has been taken,³ or that there is the intention of taking possession. It does not take effect merely because the principal forces of the country have been defeated. On the other hand, to occupy a district it is not necessary to keep troops permanently stationed in every isolated house, village, or town. It is sufficient that the national forces should not be in possession, that, the inhabitants have been disarmed, that measures have been taken to protect life and property and to secure the prevalence of order, and that, should it be necessary, troops can within reasonable time be sent to make the authority of the occupying army felt. It is a matter of indifference by what means and in what ways the authority is exercised, whether by fixed garrisons or flying columns, by large forces or by small. The manner would usually vary with the density of the population.

345. The fact that there is a fortress or defended zone still in possession of the national forces within an occupied district does not make the occupation of the remainder invalid, provided such fortress is invested.⁴ The consent of the inhabitants is in no case necessary; it suffices that they have not risen in arms, but have passively submitted.

Suggested test of occupation.

346. It has been proposed as a test of occupation⁵ that two conditions should be satisfied: firstly, that the legitimate Government should, by the act of the invader, be rendered incapable of publicly exercising its authority; secondly, that the invader should be in a position to substitute his own authority for that of the legitimate Government. These conditions afford in most cases a useful guide, but it must not be forgotten that article 42 of the Hague Rules stipulates distinctly that the authority of the occupant must actually have been established.

Proclamation of occupation.

347. In the interests of the inhabitants it is most desirable, though in strict law not necessary, that the invader should take measures to make known by proclamation the fact of the establishment of occupation and the area over which it extends. He

¹ Early's invasion of Maryland, in July, 1864, is an instance of invasion without occupation. After the armistices were signed with Germany, Austria-Hungary and Turkey in 1918, the Allied Powers occupied territories in those countries and administered them in accordance with the Hague Rules for a military occupation. These occupations were in many cases continued after peace was signed, the same conditions obtaining.

² Although the rules here discussed apply primarily in "occupied territory," they should be observed as far as possible in territories through which troops are passing and even on the battlefield.

³ Thus it would not be sufficient to post a notice in one part of a district and declare that the whole district was thereby occupied.

⁴ Thus when Alsace was declared occupied on the 14th August, 1870, the fortresses in that province were still unoccupied, but except for the sieges it had ceased to be the theatre of active operations.

⁵ French Manual, 1893, p. 67.

should at the same time summarize the effects which result from the new state of affairs.¹ Ch. XIV

348. It is also desirable, if the locality concerned is not held by an armed force after establishment of occupation, that the authority claimed should continue to be exhibited in some visible manner; for instance, by the presence of a commissioner, or of post or telegraph officials; by the occasional visits of a few troops; or by the enforcement of a system of passes. Exhibition of authority.

349. The test of the commencement of occupation is the establishment of the occupant's authority by the presence of a sufficient force following on the cessation of local resistance in consequence of the surrender, defeat or withdrawal of the enemy's forces, and the submission of the inhabitants. In practice the moment may be difficult to determine, but considerable latitude should be allowed. Test of commencement of occupation.

350. Occupation must not only be acquired but maintained. If the invader is driven out of a district by the enemy, or voluntarily evacuates it, or if the district frees itself from the exercise of his authority by a *levée en masse*, so that the legitimate government is able to resume its authority, occupation at once ceases.

351. Occupation does not necessarily cease because the occupant, after having disarmed the inhabitants and made arrangements for the administration of the district, marches on to encounter the enemy, leaving only a few troops behind. Maintenance of occupation.

352. Occupation does not become invalid through the existence of rebellion on the part of the inhabitants, or through occasional successes of guerilla bands. Even a momentary triumphant rebellion is not sufficient to interrupt or terminate occupation, provided that the authority of the legitimate government is not effectively re-established, and further provided that the occupant takes at once such measures as immediately suppress the rebellion. If, however, the power of the occupant is effectively displaced for any length of time his position towards the inhabitants is the same as before occupation.

(ii) General Effects of Occupation.

353. The occupation of enemy territory during war creates a condition entirely different from subjugation through annexation of the territory. During the occupation by the enemy the sovereignty of the legitimate owner of the territory is only temporarily latent, but it still exists and in no way passes to the occupant. The latter's rights are merely transitory, and he should only exercise such power as is necessary for the purposes of the war, the maintenance of order and safety, and the proper administration of the country. Occupation is not subjugation.

354. It is no longer considered permissible for him to work his will unhindered, altering the existing form of government,² upsetting the constitution and the domestic laws, and ignoring the rights of the inhabitants.

¹ The practice in this matter in past wars appears to have been variable. Frequently the inhabitants were only warned to behave peaceably, not to communicate with the enemy, and to comply with requisitions; as, for instance, when the British troops entered France in 1813 and 1815 (Wellington Despatches, VIII, p. 150, see App. 19 at the end of this chapter). In 1870, the Germans generally, but not always, proclaimed military jurisdiction directly they took possession of a locality by reading or posting a notice (sometimes only one notice in a canton) which gave a list of offences against the troops for which the penalty of death would be inflicted. (Barnet, 1902, p. 187.) In 1894, in China, the Japanese proclamations were

Ch. XIV

Allegiance.

Effects of
occupation
on the in-
habitants.Restora-
tion of
tran-
quillity.Cessation
of ordinary
functions
of govern-
ment.

355. The occupant, therefore, must not treat the country as part of his own territory, or consider the inhabitants as his lawful subjects. He may, however, demand and enforce such measure of obedience as is necessary for the security of his forces, the maintenance of order, and the proper administration of the country.

356. The victor is distinctly "forbidden to force the inhabitants of occupied territory to swear allegiance to him,"¹ for they remain the subjects of their sovereign and continue to have patriotic duties to their country.

357. The occupant can claim certain services from the inhabitants and may impose upon them such restrictions as he judges necessary. He can, under certain conditions, use, requisition, seize and destroy their property, and they may in various other ways have to suffer under the effects of the war.²

358. The authority of the power of the State having passed *de facto* into the hands of the occupant, the latter has the duty to do all in his power to restore and ensure, so far as possible, public order and safety.³

(iii) *Administration of Occupied Territory.*

359. The legislative, executive and administrative functions of the national government, whether of a general, provincial, or local character, cease on occupation. The civil servants and other officials of the local government may, if the occupant tacitly or expressly consents, continue to perform their ordinary routine duties, but except in case of military necessity they cannot be compelled to do so.

360. In most cases the higher officials will have fled or, if still present, will refuse their assistance,⁴ and an administration has therefore to be formed⁵; but officials of local authorities, not

¹ Hague Rules, 45. It is unnecessary to make them take an oath to abstain from hostilities commonly called an oath of neutrality, for they can be punished, as will be seen, for any departure from the attitude of non-interference in the war.

See, as regards inhabitants, para. 46; neutral persons resident in occupied territory, para. 502; and property, para. 405 *et seq.*

² Hague Rules, 45. See also App. 20 and App. 22 (H).

³ For the duties of officials of occupied territory, see para. 363 *et seq.*

⁴ In the Great War, 1914-1918, when the Germans invaded and occupied the greater part of Belgium, by a decree dated 25th August, 1914, Field-Marshal Baron von der Goltz was appointed Governor-General of Belgium, and on the same date Herr von Sandt was made chief of the civil administration.

By an order of December 3rd, 1914, General von der Goltz was superseded by General von Bissing, who served until his death in 1916, when he was succeeded by General Falkenhayn, who filled the position until the withdrawal of the German armies in the autumn of 1918. Upon the Governor-General was conferred not only the executive but also the legislative power.

With the establishment of German authority in Belgium, many Belgian officials refused to continue at their posts, although there was no such general exodus as took place in France in 1870-1871.

The governmental organisation set up in Belgium was divided into two sections, the military section and civil section, both located in Brussels.

The military section was under the directions of the Chief of the General Staff and had charge of matters concerning the army and national safety, including the police, which embraced such matters as communications, surveillance of the Dutch frontier, measures against espionage, passports, military courts, and many others. The civil section was under the direction of a "Verwaltungschef." Its relations were mainly with the civil authorities of the Belgian Government. It exercised a certain supervision over matters of justice, public works, agriculture, finance and the like. Belgian functionaries who continued in the exercise of their duties were largely under the direction of the chief of the civil section. Belgian legislation remained in force until expressly modified by the German authorities.

By a decree dated 3rd March, 1917, Belgium was divided into two administrative districts, one embracing the Flemish part (the provinces of Antwerp, Limburg, East and West Flanders, and the districts of Brussels and Louvain), the other the more distinctly Walloon portions (the provinces of Hainault, Liege, Luxemburg, Namur, and the district Nivelles). The former district was to be administered from Brussels, the latter from Namur, and over each a German director was appointed.

directly depending on the central political power, such as those of counties, municipalities, boroughs, and parishes, will generally remain, and their services may conveniently be utilized as agents of order. Ch. XIV

361. It is of little consequence whether the government imposed by the invader is called military or civil government,¹ for in either case it is a government imposed by the necessity of war and, so far as it concerns the inhabitants or the rest of the world, the laws of war alone determine the legality of its acts. Legal position of occupant.

362. Political laws and constitutional privileges are as a matter of course suspended during occupation: for instance, the laws affecting recruitment² and those concerning suffrage, the right of assembly, the right to bear arms, and the freedom of the press. Special orders may, however, be necessary to make the suspension of the laws known to the population of the occupied territory, for example, an order forbidding able-bodied men of military age to quit the occupied territory.³ Suspension of certain laws and privileges.

363. Neither the ordinary civil nor criminal jurisdiction in force in the home territory of the occupant is considered to extend over occupied territory.⁴ Laws generally continue in force.

364. Therefore the civil and penal laws of the occupied country continue as a rule to be valid, the courts which administer them are permitted to sit, and all crimes of the inhabitants not of a military nature or not affecting the safety of the army are left to their jurisdiction.

365. The officers, men, and followers of the occupying force are not answerable to the jurisdiction of these courts; they are dealt with by the military law of their army.⁵

366. If demanded by the exigencies of war, it is within the power of the occupant to alter or suspend any of the existing laws,⁶ or to promulgate new ones, but important changes can seldom be necessary and should be avoided as far as possible. Power to alter and suspend laws.

367. The commander of an occupying army is expressly prohibited from declaring, either in his own name or in that of his

¹ It should be noted that by British practice martial law is proclaimed in British territory, military government in an enemy's country. The regulations of the United States provide for martial law in an enemy's country.

² In the Great War, 1914-1918, in Palestine, after the capture of Jerusalem by the British forces, a military administration was established to govern the territory under British occupation.

³ In 1918, after the final advance, the occupied enemy territory was divided into three administrative areas, each in charge of a chief administrator directly responsible to the Commander-in-Chief.

⁴ The system of administration was in accordance with the Laws and Usages of War as laid down in the Manual of Military Law, and no departure from the principles laid down was permitted.

⁵ In the occupied parts of Turkey, as far as possible the Turkish system of government was continued.

⁶ The Germans in France, 1870-1, prevented conscription in the occupied districts.

⁷ Hague Rules, 43.

⁸ The German military code (*Militärstrafgesetzbuch* of 20th June, 1872, para. 161) made the following provision for the punishment of offences in occupied territory: "A foreigner or a German, who, in foreign territory occupied by German troops, commits an act punishable by the laws of the Empire against German troops or their followers, or against any authority established by order of the Emperor, shall be punished exactly as if he had committed it in federal territory."

⁹ Thurg, 1899, p. 315.

¹⁰ He will naturally alter any laws, the application of which would be detrimental to his military interests.

Ch. XIV Government, extinguished, suspended, or unenforceable in a court of law, the rights and rights of action of enemy subjects.¹

The courts.

368. The ordinary courts of justice and the laws they administer should be suspended only when the refusal of the judges and magistrates to act² or the behaviour of the inhabitants makes it necessary. In such case the occupant must establish courts of his own and make this measure known to the inhabitants.

Collection of taxes and rates.

369. The financial administration passes into the hands of the occupant, but all fiscal laws remain operative. If he collects the taxes, dues, and tolls payable to the State, he is in consequence bound to defray the expenses of the administration of the occupied territory to the same extent as the national government was liable.³ The collection must be made, as far as possible, in accordance with the rules in existence and the assessment in force. The occupant is entitled to appropriate to the use of the army any balance remaining over after the disbursement of these expenses. The occupant may use local rates only for the purposes for which they are raised.

370. The inhabitants of occupied territory expose themselves to the punishments for war treason if they contribute to funds which enable their legitimate government to prosecute the war.⁴

371. The invader should not change the way of collecting taxes unless compelled to do so by the flight and ill-will of the officials. If a breakdown occurs for this reason,⁵ it is a good practice to allot the total sum usually paid among the districts, towns, communities, and parishes, to impose a head tax designed to bring in the same amount, and to make the local authorities responsible for its collection, by imposing a fine upon them for delay, or by otherwise bringing pressure to bear on them.

New taxes forbidden.

372. The occupant must not create new taxes, as that is the right of the legitimate sovereign, and temporary possession does not confer it;⁶ but, as will be seen, he may raise money by contribution.⁷

Commercial intercourse.

373. The occupant may place such restrictions and conditions upon all commercial intercourse with the occupied territory as he may deem suitable for his military purpose. He may likewise remove existing restrictions; for instance, suspend the customs tariff in force.⁸

Censorship and correspondence.

374. He may impose censorship, limit or prohibit telegraphic and postal correspondence, and need not give facilities in these matters to the inhabitants unless the exigencies of war permit it, and unless the native officials render assistance.⁹

¹ Hague Rules, 23 (4).

² See para. 401, second footnote.

³ Hague Rules, 48.

⁴ See para. 441 *et seq.*

⁵ For the duty of officials in occupied territory see para. 393 *et seq.*

⁶ There is no reason why he should not suspend certain taxes. Thus in 1870 the Germans in France suspended the tobacco monopoly. (Loening, 1872, p. 629.)

⁷ See para. 423 below.

⁸ The Germans in France, 1870-1, suspended the French custom tariff as between the occupied districts and Germany. (Loening, 1872, p. 629.)

⁹ The Germans in France, 1870-1, after the French postal officials refused assistance, took over the service and received letters, but did not distribute them. Sometimes these were handed over *en bloc* to the Maire, who arranged for their delivery by the former postman; in other cases it was necessary to call personally for them. The rate of postage was raised 80 per cent. (Brenet, 1902, p. 171.)

375. Existing press laws need not be respected. The publication of newspapers may be prohibited, or permitted under restrictions.¹ The circulation of newspapers issued in unoccupied parts of the country and in neutral countries may be stopped.

Ch. XIV
—
Control of
press.

376. All means of transportation, public and private, come under the authority of the occupant, and, if he does not seize and utilize them, he may limit their operation.²

Restrictions
on move-
ment.

377. He may withdraw from individuals the right to change residence, restrict freedom of internal movement, forbid visits to certain districts, and immigration, and insist on all persons providing themselves with an identification pass.

378. Public worship must be permitted and religious convictions respected.³ If the salaries of the clergy are paid by the State they must be continued.⁴ The clergy must refrain from reference to politics, and, if they use their position to incite the population to resistance or revolt, they may be dealt with as war criminals.⁵

Religious
observances.

379. Similarly schools and educational establishments must be permitted to continue their ordinary activity, provided that the teachers refrain from references to politics and submit to inspection and control by the authorities appointed. If these conditions are not complied with the establishments may be closed.⁶

Education.

380. Hospitals, asylums, and similar institutions must be kept open. All the usual sanitary measures must be continued, and such additional precautions ordered, as may be considered necessary, the inhabitants being compelled to carry them out. The use of water, fuel, and illuminants may, if necessary, be limited on account of their value as war supplies.

Medical and
sanitary
organisa-
tion.

381. In case of necessity the inhabitants may be called on to do police duty, to assist the paid police force in the maintenance of public order, to aid in the extinction of fires or to do any other duty that may be required of citizens for the public good.

Police
duty.

(iv) *Effects of Occupation on the Population.*⁷

382. It has already been stated that obedience to the occupant is one of the implied conditions of the special position accorded to the peaceful inhabitants. Practically they must give to his administration the same obedience, short of acknowledging his sovereignty, which they rendered to their own Government before the occupation. The claim to obedience is, however, limited by the three rules (i) that "a belligerent is forbidden to compel the subjects of the hostile party to take part in the operations of war directed against their own country even if they were in the service

Limitation
on
obedience
to be
demanded
from in-
habitants.

¹ The Germans in France, 1870-1, demanded that the names of the manager, editor, proprietor, and administrator should be reported at the prefecture, that two signed copies of the journal should be deposited before publication; that no news about the operations, except that which was communicated by the General Staff, should be issued, and that German official notices should be inserted gratuitously. It was forbidden to publish articles of a hostile tendency, or criticisms of the authorities.

² Hague Rules, 53. For further information as to transport see para. 415 below.

³ Hague Rules, 46.

⁴ Provided that the occupant collects the taxes, &c., payable to the State. Hague Rules, 48.

⁵ See para. 441 below.

⁶ The Germans in France, 1870-1, closed three lycees the heads of which refused to permit inspection.

⁷ The case of neutral persons resident in occupied territory is dealt with in para. 466 *et seq.*

Ch. XIV of the belligerent before the commencement of the war¹; (ii) that the services demanded of inhabitants shall be "of such nature as not to involve them in the obligation of taking part in military operations against their own country"²; and (iii) that "a belligerent is forbidden to compel the inhabitants of territory occupied by him to furnish information about the army of the other belligerent, or about its means of defence."³

Rights of inhabitants.

383. It is the duty of the occupant to see that the lives of inhabitants are respected,⁴ that their domestic peace and honour are not disturbed, that their religious convictions are not interfered with, and generally that duress, unlawful and criminal attacks on their persons, and felonious actions as regards their property, are just as punishable as in times of peace.

Duties of inhabitants.

384. In return for this considerate treatment it is the duty of the inhabitants to behave in an absolutely peaceful manner, to carry on their ordinary pursuits as far as possible, to take part in no way in the hostilities, to refrain from every injury to the troops of the occupant, and from any act prejudicial to their operations, and to render obedience to the officials of the occupant. Any violation of this duty is punishable by the occupant.⁵

Collective punishment.

385. No collective penalty,⁶ pecuniary⁷ or otherwise, may, however, be inflicted on the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

Reprisals.

386. If, contrary to the duty of the inhabitants to remain peaceful, hostile acts are committed by individual inhabitants, a belligerent is justified in requiring the aid of the population to prevent their recurrence and, in serious and urgent cases, in resorting to reprisals.⁸

387. An act of disobedience is not excusable because it is committed in consequence of the orders of the legitimate Government, and any attempt to keep up relations with that Government or to act in understanding with it, to the detriment of the occupant, is punishable as war treason.

¹ Hague Rules, 23, last paragraph.

² Hague Rules, 52.

³ Hague Rules, 44. This rule excludes the impressment of guides. (Hague Conference, 1907, *Actes*, Vol. III, pp. 123-128.) It is really a special case of Rule 23 (last paragraph); but because the means of acquiring information has thus been expressly limited, it is not to be understood that acts which have not been particularly specified are on that account permissible. Certain countries have made reserves in regard to this Article, and therefore adhere to the ancient right of forcing inhabitants to act as guides. In practice patrols will seek information as heretofore. It has long ceased to be the custom to extort information under threat of death, the value of intelligence supplied under compulsion being very small. (Hague Conference, 1907, *Actes*, Vol. III, pp. 136-141.)

⁴ Hague Rules, 46. See also App. 22 (ff). The respect for their lives means that they must not be arbitrarily killed, and that they shall not be executed without trial.

⁵ See para. 441 *et seq.*

⁶ Hague Rules, 50. Yet this does not prejudice the question of reprisals. See para. 435 *et seq.*

The Japanese in Manchuria by proclamation ordered the inhabitants of a village to consent to prevent the destruction of a telegraph line and a railway within the limits of the village, and notified that the entire village would be liable to a fine in case of damage occurring. Professor Ariga, however, states that the Japanese went no further than menace, and that he knows of no case of a collective punishment being really executed. (Ariga, 1908, p. 388.) It would, of course, be contrary to the Hague Rules to inflict a collective punishment on a village because a bridge, for which it had been made responsible, was destroyed by a raiding party of the belligerent forces; but if certain inhabitants concealed such a party on their property they might as individuals be punished.

⁷ The levies imposed by Germany in the portions of France and Belgium which she occupied in the Great War, 1914-1918, were, therefore, illegal.

⁸ See para. 432 *et seq.*

388. The personal service of the inhabitants may be requisitioned for the needs of the army. Thus professional men and tradesmen, such as surgeons, physicians, pharmacists, electricians, coach builders, smiths, carpenters, butchers, bakers, &c., employees of gas, electric light, and water works, and of sanitary boards may be called on to render service in connection with their ordinary vocations. The officials and employees of railways, canals, river steamship companies, telegraphs, telephones, postal and similar services, and drivers of transport, whether employed by the State or private companies, may similarly be requisitioned to perform their professional work, provided the services required do not directly concern the operations of war against their own country.¹

Ch. XIV

—
Requisition of
personal
services of
inhabitants.

389. The occupant can requisition labour to restore the general condition of the country to that of peace, *e.g.*, to repair roads, bridges, railways, and to bury the dead and collect wounded. Inhabitants owe obedience when called on to carry out measures for the ordinary purposes of government, and, as already stated,² to do police and similar work.

390. It is unusual and would be generally impolitic to requisition the services of inhabitants for the superintendence or organisation of labour or work. Yet the authorities may be ordered to provide the number of labourers required for legitimate purposes.

391. The prohibition to compel inhabitants to take part in the operations of war against their own country excludes their being requisitioned to construct entrenchments and fortifications,³ although nothing prevents their being offered payment to induce them to undertake such work voluntarily. It would, however, not be wise to use inhabitants indiscriminately for such purpose, since they might convey to the enemy information as to the nature of the works.

392. Services for legitimate purposes may, if necessary, be obtained by force, and the refusal to work may be met by punishment. As a rule, however, it will be more politic to offer good wages, because these frequently prove an irresistible attraction in time of war.

Payment
for service.

(v) *The Situation and Duties of Officials in Occupied Territory.*

393. Whether government and local officials should voluntarily remain at their posts, and whether the occupant should continue them in their posts if they consent to stay, will depend on their particular functions and other circumstances. The occupant, except when forced by military necessity, must not compel such persons to remain in office against their will.

Continu-
ance in
office

¹ Hague Rules, 52. This would not exclude their being employed to remove wounded or to bring up baggage, supplies and stores.

² See para. 386. The distinction between such requisition of personal services as is permitted or not, is a delicate question on which there is some difference of opinion. In order to prevent any misunderstanding it was proposed at the Hague Conference, 1907 (*Actes*, Vol. III, pp. 120-22), to insert the words "as combatants" after "take part" in Hague Rule, 23, leaving the belligerents free to demand any other service of inhabitants. The proposal was, however, rejected. Professor Ariga considers an order to repair roads as "irreproachable in law." (*Ariga*, 1906, p. 463, footnote.)

³ Hague Conference, *Actes*, Vol. III, pp. 120-22.

Ch. XIV

Municipal
officials.Effect of
flight of
officials.Assurances
of fidelity.Resigna-
tion.

394. Usually such officials will receive instructions from their Government as to the course of action to be pursued,¹ but in the absence of such instructions they will use their own judgment. For the safety of life and property some should remain to hand over civil authority to the invader.²

395. In the past government officials have usually withdrawn, whereas local municipal officials have often remained. It is recognised that they will at times best fulfil their moral duty towards their own people if they continue in office in the presence of the invader.³ For if they withdraw there will be disorder and confusion; while if they remain at their posts order and safety are better secured. They should not, however, be called on to act as intermediaries of the occupant, if by so doing they would forward military operations.

396. The general desertion of the officials must occasion the occupant great difficulties. He has to create new organs to execute his decisions, and, as his employees know neither the country nor the people, it will be only after a considerable lapse of time that they can familiarise themselves with their new charge. The inhabitants rather than the invader will suffer by the withdrawal of the judges, magistrates, sanitary and police authorities, and there would be no object in the staff of museums and libraries abandoning their posts. Railway, postal, telegraph, and telephone officials, whether State or otherwise, will, however, almost necessarily cease work.

397. Unless their own acts render their removal necessary, the occupant will in most cases invite officials to remain at their posts, promising to them their salaries.

398. The occupant may require such officials as continue at their posts to take an oath to perform their official duties conscientiously. As such an oath, however, might be objected to by the officials as well as by the population, it will, as a rule, be advisable not to require an oath but merely to ask for an assurance that they will loyally fulfil the service confided to them and will place no obstacle in the way of the occupying force.⁴

399. The occupant need not enquire into the credentials of officials found in authority at the moment of occupation.

400. It is not a hostile act for an official to resign after having taken service under the occupant or having continued in it.

¹The Prussian regulations for the Landsturm, 1813, laid down, "If a town is occupied by the enemy the authorities will be considered suppressed and no one is bound to obey them. In 1866, when Prussia invaded Bohemia the Austrian Government ordered all functionaries, including the police, to abandon the territory."

In Alsace-Lorraine, in 1870, the higher functionaries left, but many of the subordinate ones remained, until a decree of Gambetta, 1st November, 1870, ordered them to abandon their employment under penalty of loss of their pensions. (Loening, 1872, p. 641.)

²In particular the police, temporary or otherwise. The complete withdrawal of the Russian administration from Dalny, in 1904, before the arrival of the Japanese, resulted in the looting of the town by the Chinese inhabitants. (Ariga, 1906, p. 352.)

³Hague Conference, 1864, p. 148.

⁴The Germans in France, 1870-1, demanded the following declaration of the French postal officials: "I am ready to obey without opposition the orders of the postal authorities established in the French occupied territory by the German troops, and I promise to avoid all that can injure the interests of the German Powers and their armies." In consequence the French officials declined to assist. (Brenet, 1902, p. 171.)

401. The occupant being the administrator of the country can remove and instal officials.¹ Even judicial functionaries may be deposed if they refuse obedience to the occupant.²

Ch. XIV

Removal.

402. The salaries of officials who continue to do duty must be paid by the occupant if he collects the taxes of the occupied territory.³

Salaries.

403. Such wrongful acts of officials as constitute ordinary crimes are to be punished according to the law of the land, but any act to the disadvantage or damage of the occupying army may be dealt with as war treason.⁴

Offences.

404. If an official is considered dangerous to the interests of the occupant, he may, according to the merits of the case, be removed, made a prisoner of war, or expelled from the occupied territory.

IX.—TREATMENT OF ENEMY PROPERTY.⁵

405. The unlimited right to seize and take enemy property of every kind no longer exists.⁶

Booty.

406. The destruction or seizure of enemy property is forbidden, whether it belongs to private individuals or to the State, unless the damage or taking is imperatively demanded by the necessities of war.⁷

General rule as to interference with property.

(i) *Private Property.*

407. Private property must be respected ; it may not be confiscated or pillaged, even if found in a town or place taken by assault.⁸ This prohibition in its ordinary sense is no new rule, but has for a long time past been embodied in the regulations of every civilized army, for nothing is more demoralizing to troops or more subversive of discipline than plundering. Theft and robbery are as punishable in war as in peace, and the soldier in enemy country must observe the same respect for property as in his garrison at home. The rule that private property must be respected has, however, exceptions necessitated by the exigencies of war. In the first instance, every operation, movement, or combat

General rules as to interference with private property.

¹ When the French occupied districts were disturbed in January, 1871, by the rumours of the success of Bourbaki's movement, the Germans considered it necessary to discharge a number of French officials. (Loening, 1872, p. 642.)

² During the occupation of Nancy in 1870-1 all the French judges of the Court of Appeal at Nancy were removed by the invader and replaced by Germans, because no arrangement could be come to with regard to the form of words to be used in delivering judgment. After the fall of the Empire and the proclamation of the French Republic, the Court commenced to pronounce its verdicts "In the name of the French people and Government." As Germany had not yet recognised the Republic, the German authorities ordered the Court to use the formula "In the name of the High German Powers occupying Alsace and Lorraine," but gave it to understand that if it objected to these words, they were prepared to accept "In the name of the Emperor of the French," as Napoleon III had not abdicated. The Court, however, refused to pronounce its verdicts otherwise, and suspended its sittings. Bluntschli (*Völkerrecht*, para. 547, third edition, 1878) correctly maintains that the most natural solution of the difficulty would have been to have used the neutral formula "In the name of the Law."

³ Hague Rules, 48.

⁴ See para. 441 below.

⁵ See instructions for the requisitioning of supplies, stores, animals, labour, &c., laid down in Field Service Regulations, Vol. I, 1930, p. 280.

⁶ Whenever booty is still admissible and therefore taken, it becomes the property of the State and not of the individuals who capture it. The former practice by which booty was sold and the proceeds divided amongst the captors has vanished. As to property on the battlefield see para. 433 below.

⁷ Hague Rules, 23 (g).

⁸ Hague Rules, 28, 46 and 47.

Ch. XIV

Real
estate.

occasions damage to private property. Further, the right of an army to make use of and to requisition certain property is fully admitted.¹ What is forbidden is such damage, destruction, improper seizure or taking of property as is not required in the interests of the army, and as would, therefore, increase the sufferings of the population in war.

408. Generally, therefore, no damage may be done that is not required by military operations, but even total destruction of property is justifiable if it is required by the exigencies of war.

409. The real estate of individuals may not be appropriated or alienated, nor may it be used, let or hired for private or public profit.²

410. The temporary use of real estate for the wants of the army is justified, even though such use may endanger its value. Thus apart from the necessary use of land in war for marching, encampments, and construction of entrenchments, the inhabitants may be compelled to accommodate the troops and the sick and wounded in their houses, and army animals in their stables and sheds. Buildings may be used for the purposes of reconnaissance, cover, defence, &c., and if it is necessary, houses, fences and woods may be demolished, cut down, and removed to clear a field of fire or to provide material for bridges, fuel, &c., imperatively needed by the army.

Compensa-
tion.

411. Neither rent for the use of property, nor compensation for damage caused by the necessities of war can be claimed. If time allows, however, a note of the use or damage should be kept, or given to the inhabitant, so that in the event of funds being provided by either belligerent at the close of hostilities to compensate the inhabitants, there may be evidence to assist the assessors.

Billeting.

412. In quartering troops in private dwellings some rooms should be left to the inhabitants; the latter should not be driven into the streets without shelter. If for military reasons, whether for operation purposes or to protect men and horses from the weather, it is imperative to remove the inhabitants, endeavours should be made to give them notice and provide them with facilities for taking their indispensable baggage with them.

Unoccupied
buildings.

413. When buildings of absent owners are made use of, care should be taken that they are reasonably treated. The fact that the owners are away does not authorise pillage or damage.³ A note should be left if anything is taken. There is, however, no obligation to protect abandoned property, for to do so might require a very numerous body of men.

Destruc-
tion by way
of reprisal.

414. The custom of war permits as an act of reprisal the destruction of a house, by burning or otherwise, whose inmates, without possessing the rights of combatants,⁴ have fired on the

¹ Hague Rules, 52 and 53.

² This prohibition includes the private property of ruling families so far as it has really this character and is not State domain.

³ The opinion expressed by Bluntschli (*Völkerrecht*, para. 652, third edition, 1878) that "When the soldier finds the door of his billet locked and provisions intentionally spoilt or hidden, necessity compels him to burst open doors and search for food, and in righteous anger he may occasionally smash a mirror or two and stoke the fire with the furniture," is contrary to the Hague Rules, as such damage is not "imperatively demanded by the necessities of war"; it is not permitted in any disciplined army. (See A.A., 6 (3) (d).)

⁴ See para. 452 *et seq.*

troops. Care must, however, be taken to limit the destruction to the property of the guilty. Ch. XIV

415. As to private personal property, this falls for war purposes into two categories. The first category comprises all such things as are susceptible of direct military use. These may be seized, but they must be restored at the conclusion of peace, and indemnities must be paid for them.¹ Under this category fall : appliances adopted for the transmission of news by land, sea, or air, such as cables,² telegraph and telephone plant ; all kinds of transport whether on land, at sea,³ or in the air, such as horses, motors, bicycles, carts, carriages, railways and railway plant,⁴ tramways, ships in port, river and canal craft, aircraft of all descriptions except ambulance aircraft ;⁵ depôts of arms, whether military or sporting ;⁶ and in general all kinds of war material.⁷ No actual stipulation is made in the Hague Rules to oblige the belligerent who effects the seizure to give a receipt, but the fact of seizure should obviously be established in some way, if only to give the owner an opportunity of claiming the compensation expressly provided for.

Personal
property.
First
category.
Seizure.

416. The second category of private personal property covers all such articles as are not susceptible of direct military use, but are necessary for the maintenance of the army. Under this category fall such things as : food and fuel supplies, liquor and tobacco, cloth for uniforms, leather for boots, and the like. The taking of such articles is forbidden unless they are actually required for the needs of the army.⁸ They must be duly requisitioned, and the amount taken must be in proportion to the resources of the country.⁹

Private
property.
Second
category.
Requisitioning.

¹ Hague Rules, 52. By which party such indemnities are to be paid should be settled in the terms of the peace treaty. Unless the question is properly settled in the peace treaty, vexatious and interminable correspondence will occur.

The following special rule with regard to cables in occupied territory is given in art. 54 of the Hague Rules :—"Submarine cables connecting an occupied territory with a neutral territory should not be seized or destroyed except in the case of absolute necessity. They also must be restored at the conclusion of peace, and indemnities paid for them." It was, however, explained at the Hague Conference, 1907 (*Actes*, Vol. III, p. 15), that "this article is only to be taken to refer to what passes on land, without touching the question of the seizure or destruction of submarine cables in the open sea." This reservation detracts from its importance, since if the destruction or seizure of a cable were necessary, steps might be taken to cut it or work it at a point outside the three-mile limit. The rule applies to both government and private cables. Thus the British Navy, within 12 hours of the declaration of war against Germany in 1914, had cut the cable communications between Germany and all overseas countries except Sweden, Norway, and Turkey in Asia.

² Except in cases governed by maritime law. See Hague Conference, 1907, *Actes*, Vol. III, p. 27, where the possibility of troops seizing ships in port and river craft is alluded to.

³ At the close of the war, 1870-1, the Germans retained all railway rolling stock belonging to private companies, and a mixed commission was instituted which fixed the compensation to be divided between them. (Brénet, 1902, p. 186.) As regards railway material coming from the territory of neutral powers, see para. 507 *et seq.*

⁴ See para. 207.

⁵ Inhabitants may be called upon to give up any arms and ammunition in their possession, even antique, valuable, and curious weapons, if circumstances demand it.

⁶ War material in its widest sense means anything that can be made use of for the purpose of offence and defence ; it also includes the necessary means of transport.

⁷ Hague Rules, 52.

⁸ Hague Rules, 52.

The expression "needs of the army" was adopted deliberately at the First Hague Conference as having a more restricted meaning than the "necessities of the war" might be held to convey. Luxuries, such as wine and tobacco, which add to the comfort and efficiency of the army, may be requisitioned, but not such articles as watches and jewellery. "Occupied territory is not to be systematically exhausted." (Hague Conference, 1899, p. 149.) The quantity of food to be left in the possession of inhabitants must be decided by the commander ordering the requisition, who will be guided by local conditions. The usual practice is to leave at least three days' supply of food for a household, and rather more than that at outlying farms or villages. (See Field Service regulations, Vol. I, 1930, p. 280.)

Ch. XIV

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Payment
for requisitions.

Method of
requisitions.

417. Articles requisitioned should be paid for in ready money, but if this is not possible a receipt must be given for them, and the payment of the amount due must be made as soon as possible.¹

418. Requisitions can only be demanded on the authority of the commander in the locality occupied,² but it is not necessary that his order for the requisition should be produced, as the articles taken must be paid for or a receipt given. The assistance of the local authorities of the invaded territory may be invoked to obtain the supplies.³ When it is impossible to obtain this assistance special parties under an officer should be detailed to collect what is required. Except in cases of emergency no one under the rank of commissioned officer is, by the regulations of practically all armies, permitted to requisition.

419. Requisitions of supplies may be made in bulk, that is, a community may be called on to supply certain quantities, or a return may be called for from inhabitants giving the amounts in their possession of which a proportion may then be requisitioned, or the householders may be requisitioned to feed or partly feed the soldiers quartered on them, and any other way that is convenient may be employed provided the above-mentioned rules are observed.

Billeting.

420. The right to billet troops on the inhabitants follows the right to requisition.

Fixing of
prices.

421. The prices to be paid for requisitioned supplies may be fixed by the commander of the occupying force. The prices of commodities on sale may also be regulated, and limits may be placed on the hours and places of trading.

Destruction
of
supplies.

422. Supplies in the hands of private inhabitants may not be destroyed simply for fear that the enemy should make use of them later on.⁴

Contributions.

423. Cash, over and above taxes, may be requisitioned from the inhabitants, and is then called a "contribution." The occupant may not, however, levy a contribution for the purpose

¹ Hague Rules, 52.

The practice of war which prevailed before the agreement upon the above article by the civilized Powers was to defer payment until the end of the war, to make allowance for the value requisitioned in the indemnity agreed on in the terms of peace and to leave each side to settle with its own subjects. In the version of the Rules, drawn up at the First Hague Conference of 1899, it was merely laid down that requisitions should "as far as possible be paid for in ready money", or receipt should be given, and it was assumed that "the question of the payment of receipts will ordinarily form the subject of an article in the terms of peace." (Hague Conference, 1899, p. 151.) The Rules drawn up in 1907 have made the former practice and rule obsolete: if a cash settlement is not possible, payment of sums due on account of requisitions must be made as soon as possible, and "as far as possible during the hostilities." (Hague Conference, 1907, *Actes*, Vol. III, p. 28.) Under these Rules therefore a requisition receipt is an acknowledgment of a debt and a promise to pay. The system of cash payment for requisitions is recommended as often less irksome to the population and generally more politic, if only to prevent the people from concealing their supplies. The army of occupation can procure cash by means of contributions in money (see below, para. 423), which can be levied evenly upon the population, whereas when requisitions are made without payment they may bear heavily on chance individuals. (Hague Conference, 1899, p. 150.)

It may be more convenient in occupations which follow an armistice, such as those in 1918, to add the money paid for requisitioned articles to the amount of the indemnity claimed in the treaty of peace. If payment for requisitions is for any reason deferred to the end of the war, payment should be arranged for in the indemnity clauses of the peace treaty, otherwise much acrimonious correspondence on requisitions will occur.

² Hague Rules, 52, and Hague Conference, 1899, p. 150.

³ Requisitions will always be made by a demand on the form prescribed (A.F.F. 780), which may be altered to suit local conditions. (Field Service Regulations, 1930, Vol. I, p. 282.)

⁴ Only in case of a general devastation may such supplies, like other property, be destroyed. (See para. 434 below.)

of enriching himself, and it can only be applied to the needs of the army or of the administration of the territory in question.¹ Ch. XIV
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424. A contribution should not be exorbitant² and may no longer be used as a means of pressure or of punishment.³ It is chiefly useful to distribute the burden of requisition between towns and the supply-producing country districts, cash contributed in the former being used to purchase produce in the latter.

425. A contribution may not be collected except under a written order and on the responsibility of a commander-in-chief. The collection must be made as far as is possible on the basis of the assessment of taxes in force at the time,⁴ and a receipt must be given to every individual contributor.⁵

(ii) *Public Property.*

426. Real property belonging to the State which is of a military character, such as forts, arsenals, dockyards, magazines, barracks, and stores, also railways, canals, bridges, piers, and wharves, remain absolutely in the hands of the occupant until the end of the war. They may be damaged or destroyed in the interest of the military operations. Real property of a State.

427. Real property belonging to the State which is essentially of a civil or non-military character, such as public buildings and offices, land, forests, parks, farms, and mines, may not be damaged unless its destruction is imperatively demanded by the exigencies of war. The occupant becomes the administrator and usufructuary of the property, but he must not exercise his rights in such a wasteful or negligent way as will decrease its value, for he has not the absolute right of disposal or sale.⁶

428. The occupant may, however, let or utilize public land and buildings, sell the crops on public land, cut and sell timber, work the mines; but he may not make a contract or lease extending beyond the conclusion of the war, and the cutting or mining must not exceed what is necessary or usual, and must not be an abusive exploitation.

429. Special exception, however, is made in favour of property belonging to local, that is to say, provincial, county, municipal and parochial authorities. This, as well as the property of institutions dedicated to public worship, charity, education, science, and art, such as churches, chapels, synagogues, mosques, almshouses, hospitals, schools, museums, libraries, and the like, must be treated as private property.⁷ Troops, sick and wounded, horses, and stores may therefore be housed in buildings of the above character, but such use is only justifiable if it is a military necessity. Any seizure, destruction, or wilful damage to the property of such institutions, or to historic monuments, or works of science and art, Property of local governments.

¹ Hague Rules, 46.

² The victor is not justified in covering the cost of the war, even when it has been forced on him, by rakes on the capital of private individuals. (*Kriegsbrauch*, 1902, p. 63.)

³ Hague Rules, 50, definitely forbids collective pecuniary punishment.

⁴ Hague Rules, 51. For collection of taxes, see para. 371 above.

⁵ Hague Rules, 51.

⁶ Hague Rules, 55, which says such property must be administered "in accordance with the rules of usufruct"; that is, the occupant has the *usus* (= use) and the *fructus* (= products).

⁷ Hague Rules, 56, para. 1.

Ch. XIV is forbidden.¹ Thus, it would not be improper to place sick and wounded in a church if no accommodation could immediately be found elsewhere, but a consecrated building should not be used for the purpose of barracks, stables, or stores, unless it is absolutely necessary.²

Movable
property of
a State.

430. Movable property belonging to the State is, like private property, divided, as regards its treatment, into two categories. Cash, specie, funds, and realisable securities which are strictly the property of the State,³ and all property directly susceptible of military use, such as means of transport, appliances for the communication of news, depôts of arms, stores and supplies,⁴ may be taken possession of as booty. The public income and taxes raised in occupied territory may also be disposed of, but in this case the regular expenditure of the administration must be borne by the occupant.⁵

Other
public
property.

431. Other movable public property, not directly susceptible of military use, as well as that belonging to the institutions mentioned above, which is to be treated as private property,⁶ must be respected and cannot be appropriated; for instance, crown jewels, pictures, collections of works of art, and archives, although papers in connection with the war may be seized, even when forming part of archives.

Property
whose
ownership
is doubtful.

432. Where there is any doubt whether certain property is public or private, as may frequently occur in the case of stores and supplies obtained from contractors, it should be considered to be public property unless and until its private character is distinctly proved.⁷

(iii) *Property on the Battlefield.*

Treatment
of property
found on
the battle-
field.

433. Property found or captured on a battlefield is dealt with generally in accordance with the rules given above. Private enemy property on the battlefield is not, as in former times, in every case booty. Horses, arms and ammunition and military papers are booty, even if they are the property of individuals, but cash, jewellery, and other private articles of value are not.⁸ There is a definite obligation that personal effects, valuables, letters, &c., found on the field must be collected and forwarded, by means of the prisoners of war information bureau, to those concerned.⁹

¹ Hague Rules, 56, para. 2. See para. 436 below. As regards the arrangements for sparing such institutions during a bombardment, see para. 135 above.

² In 1870 the Germans housed 9,000 French prisoners in the Cathedral of Orleans. (Letters of Major von Kretschman, Latreille's French translation, p. 312.)

³ Hague Rules, 53. Banks may be ordered not to part with funds and securities until the ownership is determined. Art. 53 excludes the seizure of funds belonging to a government savings bank, or to private individuals or companies. The occupant would be liable for the deposits in Government savings banks of persons residing in the occupied territory. The Germans in France, 1870-1, long before the meeting of the First Hague Conference, recognised this liability. Depositors of 50 francs and less were paid in full, but those whose balances exceeded this amount received only a percentage. (Loening, 1873, p. 117.)

⁴ Supplies "for war purposes." (*Kriegsbrauch*, 1902, p. 55.)

⁵ Hague Rules, 48.

⁶ See para. 429.

⁷ Cases of government property being transferred to a private ownership to avoid seizure have occurred in various wars.

⁸ Prisoners of War Convention, art. 6. See paras. 61-64.

⁹ Prisoners of War Convention, art. 77, last paragraph.

(iv) *General Devastation.*

Ch. XIV

434. General devastation of enemy territory is, as a rule, absolutely prohibited, and only permitted very exceptionally, when "it is imperatively demanded by the necessities of war."¹ The question in what circumstances a necessity arises cannot be decided by any hard-and-fast rule.²

When permissible.

X.—MEANS OF SECURING LEGITIMATE WARFARE.

(i) *General.*

435. Scarcely any war has taken place without complaints having been made of illegitimate acts and omissions of some kind or other having been committed by individuals or by commanders. In some cases belligerent Governments themselves, owing to differences of interpretation of the laws of war, have been accused of illegitimate acts or of refusing to punish alleged illegitimate acts of their soldiers.

Alleged occurrence of illegitimate acts.

436. The Convention respecting the Laws and Customs of War on Land foresees the possibility of illegitimate acts and lays down that :—"A belligerent party which violates the provisions of the Rules (annexed to the Convention),³ shall if the case demands be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces."⁴ The Rules further order that the perpetrators of the particular offences of seizure, damage or wilful destruction of churches, hospitals, schools, museums, historic monuments, works of art, &c., shall be prosecuted.⁵

437. As war is the last remedy of Governments for injuries, no means would appear to exist for enforcing reparation for violations of the laws of war. Practically, however, legitimate warfare is, on the whole at least, secured through several means recognized by International Law. Moreover, it is in the interest of a belligerent to prevent his opponent having any justifiable occasion for complaint, because no Power, and especially no Power engaged in a national war, can afford to be wholly regardless of the public opinion of the world.

How legitimate war is on the whole secured.

438. These means fall into two classes according to whether or no they fall under the category of self-help. To the one class belong : complaints lodged with the enemy ; complaints lodged with neutral states ; and good offices, mediation, and intervention of neutral states. To the other class belong : punishment of war crimes committed by enemy soldiers and other enemy subjects ; reprisals ; and the taking of hostages.

Two classes of means.

¹ Hague Rules, 23 (g).² For instance, in the case of a *levée en masse* on already occupied territory, when self-preservation compels a belligerent to the most severe measures, a general devastation might be absolutely necessary.³ Referred to in this chapter as the Hague Rules.⁴ Art. 3 of the Convention respecting the Laws and Customs of War on Land.⁵ Hague Rules, 56.

Ch. XIV

(ii) *Complaints, Good Offices, Mediation and Intervention.*¹Com-
plaints.

439. As diplomatic intercourse between the contending States is broken off during war, complaints are either sent to the enemy under protection of a flag of truce,² or through a neutral State which lends its good offices.³ Complaints may also be lodged with neutral States, with or without a view of soliciting their good offices, mediation, or intervention for the purpose of making the enemy observe the laws of war.⁴ Incidentally it may be remarked that occasionally the foreign press is made use of for enlisting foreign public opinion against the enemy.⁵

Good
offices and
mediation.
Interven-
tion.

440. Good offices and mediation by neutral States for the purpose of settling differences are friendly acts, in contradistinction to intervention, which is dictatorial interference for the purpose of making the respective belligerents comply with the laws of war.

(iii) *The Punishment of War Crimes.*

War crimes.

441. The term "War Crime"⁶ is the technical expression for such an act of enemy soldiers and enemy civilians as may be visited by punishment or capture of the offenders. It is usual to employ this term, but it must be emphasized that it is used in the technical military and legal sense only, and not in the moral sense. For although some of these acts, such as abuse of the privileges of the Red Cross badge, or the murder of prisoners, may be disgraceful, yet others, such as conveying information about the enemy, may be highly patriotic and praiseworthy. The enemy, however, is in any case entitled to punish these acts as war crimes.

442. War crimes may be divided into four different classes:—

- (i) Violations of the recognized rules of warfare by members of the armed forces.
- (ii) Illegitimate hostilities in arms committed by individuals who are not members of the armed forces.
- (iii) Espionage and war treason.
- (iv) Marauding.

Violations
of laws of
war by
armed
forces.

443. The more important violations are the following:—making use of poisoned and otherwise forbidden arms and ammunition; killing of the wounded; refusal of quarter; treacherous request of quarter; maltreatment of dead bodies on the battlefield; ill-treatment of prisoners of war; breaking of parole by prisoners of

¹ Although complaints lodged with neutral States, good offices, mediation and intervention are diplomatic means, they are of sufficient interest to soldiers to be briefly mentioned here.

² Thus, during the siege of Port Arthur, complaints with regard to hospitals in the fortress being struck by shells were made direct through a parlementaire to General Baron Nogi. (Ariga, 1906, p. 286.)

³ Thus in October, 1904, during the Russo-Japanese War, Japan sent a complaint to the Russian Government, concerning the alleged use of Chinese clothing by Russian troops, through the intermediary of the United States of America. (Ariga, 1906, p. 253.)

⁴ Thus in January, 1871, during the Franco-German War, Germany, in a circular letter addressed to her diplomatic envoys abroad to be communicated to the respective neutral Governments, complained of twenty-one cases in which it was alleged that the French had intentionally fired on the bearers of a flag of truce.

⁵ In the Great War, 1914-1918, all belligerents made extensive use of propaganda in the foreign press for influencing foreign public opinion in their favour.

⁶ The term "War Crime" has by usage in 1914-1918 been employed more especially in respect of violations of the recognized rules of warfare rather than to the remaining classes of war crimes enumerated. Its more general meaning is, however, well established in International Law.

war ; firing on undefended localities ; abuse of the flag of truce ; **Ch. XIV**
 firing on the flag of truce ; abuse of the Red Cross flag and badge,
 and other violations of the Red Cross Convention ; use of civilian
 clothing by troops to conceal their military character during
 battle ; bombardment of hospitals and other privileged buildings ;
 improper use of privileged buildings for military purposes ;
 poisoning of wells and streams ; pillage and purposeless destruc-
 tion ; ill-treatment of inhabitants in occupied territory. It is
 important, however, to note that members of the armed forces who
 commit such violations of the recognized rules of warfare as are
 ordered by their Government, or by their commander, are not war
 criminals and cannot therefore be punished by the enemy. He
 may punish the officials or commanders responsible for such
 orders if they fall into his hands, but otherwise he may only resort
 to the other means of obtaining redress which are dealt with in
 this chapter.

444. As regards illegitimate hostilities in arms on the part **Hostilities**
 of private individuals, the conditions under which such private **in arms by**
 individuals may acquire the privileges of members of the armed **individuals**
 forces have already been stated.¹ If persons take up arms and **not**
 commit hostilities without having satisfied these conditions, they **belonging**
 are from the enemy's standpoint guilty of illegitimate acts, and, **to the**
 when captured, are liable to punishment as war criminals. If such **armed**
 acts are committed by the inhabitants of a territory invaded by **forces.**
 the enemy, the term "war rebellion" is usually applied.

445. In reference to espionage and war treason, it has already **Espionage**
 been pointed out in dealing with espionage,² that in the Hague **and war**
 Rules the word "spy" has a technical meaning. The obtaining, **treason.**
 supplying and carrying of information to the enemy is not
 espionage, unless the individual concerned is acting clandestinely
 and under false pretences ; but it may be war treason. Thus, for
 instance, inhabitants of enemy territory occupied by a belligerent
 who give information to the enemy may be punished for war
 treason. Many other acts, however, which may be attempted or
 accomplished in occupied territory, or within the enemy's lines, by
 private individuals or by soldiers in disguise, are also based as
 war treason, although perfectly legitimate if done by members of
 the armed forces. For instance, damage to railways, war material,
 telegraphs, or other means of communication, in the interest of
 the enemy ; aid to enemy prisoners of war to escape³ ; conspiracy
 against the armed forces or against members of them ; intentionally
 misleading troops in the interest of the enemy when acting as
 guide ; voluntary assistance to the enemy to facilitate his opera-
 tions (for instance, by giving supplies and money, and acting as
 guides) ; inducing soldiers to serve as spies, to desert, or to
 surrender ; bribing soldiers in the interests of the enemy ; damage
 or alteration to military notices and signposts in the interests of the
 enemy ; fouling water supply and concealing animals, vehicles,
 supplies, and fuel in the interests of the enemy ; knowingly

¹ See para. 22 *et seq.*

² See para. 160 *et seq.*

³ It was on this charge that the Germans condemned and shot Nurse Cavell at Brussels in 1915.

Ch. XIV

Neglect
and dis-
obedience
of orders.

aiding the advance or retirement of the enemy; circulating proclamations in the interests of the enemy.

446. There are many acts likely to be committed by inhabitants which are not violations of the laws of war, and not therefore war crimes, but which, nevertheless, a belligerent may forbid and punish in the interests of order and the safety of his army, such as:—failure to extinguish or exhibit lights at fixed hours; failure to take out a pass; charging over regulation prices for accommodation; furnishing liquor to soldiers; evading censorship regulations; making false accusations against troops; making false claims for damage; being in possession of army animals, stores or supplies; neglect or disobedience generally of government, police, and sanitary regulations.

447. It is advisable that the inhabitants should be informed directly occupation has taken place of their duty to maintain order, to respect the commands of the occupant, and, particularly, to desist from acts especially forbidden.¹

Marauding.

448. The fourth class of war criminals consists of marauders. These are individuals, either civilians or soldiers, who have left their corps,² who follow armies on the march or appear on battlefields, either singly or in bands, in quest of booty, and rob, maltreat or murder stragglers and wounded, and pillage the dead. Their presence, besides being a menace and danger to the belligerent they accompany, may lead to aspersions on the conduct of his army by his adversary. Their acts are considered acts of illegitimate warfare, and the punishment takes place in the interest of either belligerent.

Trial of
war
criminals.
Punish-
ments.

440. Charges of war crimes may be dealt with by military courts or by such courts as the belligerent concerned may determine. In every case, however, there must be a trial before punishment³, and the utmost care must be taken to confine the punishment to the actual offender.

Punish-
ments.

450. All war crimes are liable to be punished by death, but a more lenient penalty may be pronounced. Corporal punishment is excluded, and cruelty in any form must be avoided. The punishment should be deterrent, but great severity may defeat its own ends by driving the population to rebellion.⁴

¹ Professor Ariga thinks "that it is contrary to all the principles of repressive measures not to make known in advance what acts are and are not punishable It can also be said that the object of martial law is not so much to punish as to menace and thus prevent harmful acts. For this purpose publication is necessary." (Ariga, 1908, p. 378.) See also para. 347 and note.

² Soldiers of the national army who take up marauding are, of course, punishable under military law. (See A.A. 6 (2) (a).)

³ "Previous trial is in every case indispensable." (Hague Conference, 1899, p. 146.)

⁴ The language employed for the proceedings would usually be that of the occupant. An interpreter should, if possible, be provided in case an accused person does not understand the language of the occupant. It is advisable that, if possible, the proceedings should be public.

Professor Ariga gives the following particulars of the military courts which dealt with the offences of inhabitants in Manchuria:—

- (a) A clear distinction was made between courts-martial and military courts; in the latter it was not considered necessary to have recourse to the slow and minute procedure of courts-martial.
- (b) The court consisted of officers and military or civil officials, but never of less than three members. The verdict required a majority, but not unanimity.
- (c) The accused was allowed counsel.
- (d) The penalty of death was laid down for nearly all offences, but the court had full power to pronounce a less severe punishment or none at all.

451. In pronouncing a sentence of imprisonment it need not be taken into consideration whether there is a probability of the prisoner being released at the end of the war. There is no right to claim release, and it would not be in the interests of humanity to grant such right, for otherwise belligerents would be forced to carry out capital punishment in many more cases than is now usually necessary.

(iv) *Reprisals.*¹

452. Reprisals between belligerents are retaliation for illegitimate acts of warfare, for the purpose of making the enemy comply in future with the recognized laws of war. They are not referred to in the text of the Hague Rules, but are mentioned in the Report presented to the Peace Conference of 1889 by the Committee which drew up the Convention respecting the Laws and Customs of War on Land.² They are by custom admissible as an indispensable means of securing legitimate warfare. The mere fact that they may be expected, if violations of the laws of war are committed, acts to a great extent as a deterrent. They are not a means of punishment, or of arbitrary vengeance, but of coercion.

Nature of reprisals.

453. The illegitimate acts may be committed by a Government, by its military commanders, or by some person or persons whom it is obviously impossible to apprehend, try, and punish.

454. Reprisals are an extreme measure because in most cases they inflict suffering upon innocent individuals. In this, however, their coercive force exists, and they are indispensable as a last resource.

455. Although there is no rule of International Law respecting the matter, reprisals should never be resorted to by the individual soldier, but only by order of a commander.

456. An infraction of the laws of war having been definitely established, every effort should first be made to detect and punish the actual offenders. Only if this is impossible should other measures be taken in case the injured belligerent thinks that the facts warrant them. As a rule the injured party would not at once resort to reprisals, but would first lodge a complaint with the enemy in the hope of stopping any repetition of the offence or of securing the punishment of the guilty. This course should always be pursued unless the safety of the troops requires immediate drastic action, and the persons who actually committed the offences cannot be secured.

Procedure with regard to alleged illegitimate acts.

457. Even when both direct and indirect appeal to the enemy for redress has failed it should be considered, before resorting to reprisals, whether he is not more likely to be influenced by a steady adherence to the laws of war on the part of his adversary.

458. Although collective punishment of the population is forbidden for the acts of individuals for which it cannot be regarded

Collective punishment.

¹ Reprisals in time of war only are referred to here.

² When dealing with art. 50, which forbids collective punishment, the report states that the article is "without prejudice of the question of reprisals." (Hague Conference, 1889, p. 151.)

Ch. XIV as collectively responsible,¹ it may be necessary to resort to reprisals against a locality or community, for some act committed by its inhabitants, or members who cannot be identified.

Form of
reprisals.

459. What kinds of acts should be resorted to as reprisals is a matter for the consideration of the injured party. Acts done by way of reprisals must not, however, be excessive, and must not exceed the degree of violation committed by the enemy.²

460. Reprisals may be resorted to, or must at once cease, when the enemy gives satisfaction for the illegitimate acts committed by him.

(v) *The taking of Hostages.*

Former
uses of
hostages.

461. The practice of taking hostages as a means of securing legitimate warfare was in former times very common. To ensure the observance of treaties, armistices and other agreements depending on good faith, hostages were given or exchanged, whose lives were held responsible for any perfidy. This practice is now obsolete, and if hostages are nowadays taken at all they have to suffer in captivity, and not death, in case the enemy violates the agreements in question. The Hague Rules do not mention hostages, and it must be emphasized that in modern times it is deemed preferable to resort to territorial guarantees instead of taking hostages.³

Placing in-
habitants
on railway
trains.

462. Use has sometimes⁴ been made of hostages by placing prominent inhabitants on the engines of trains on the lines of

¹ Hague Rules, 50.

² During the Franco-German War, 1870-1, the French captured 40 merchant ships and made their crews prisoners of war. Count Bismarck, who considered it contrary to International Law to retain these men as prisoners, demanded their liberation, and when the French refused it, ordered by way of reprisals 40 French private individuals of local importance to be arrested and sent as prisoners of war to Bremen, where they were kept until the end of the war. (Count Bismarck, as it happened, was decidedly wrong, for France had, as the laws then stood, in no way committed an illegal act by retaining the German crews as prisoners of war.)

The Germans, in 1870-1, by way of reprisals for offences committed by inhabitants in taking part in the attack on troops, convoys, messengers, &c., exacted fines or burnt down buildings. At Charnes, the town casino was burnt down as punishment for inhabitants having fired on the escort of a convoy of prisoners of war (Von Widdern, IV, 2, p. 33). The village of Fontenay was burnt down and a fine of 10,000,000 francs levied on the Province of Lorraine on account of the railway bridge near the village having been destroyed with the alleged connivance of inhabitants. (*Idem*, IV, 2, pp. 290-303.)

In his proclamations of 31st May, 16th and 19th June, 1900, Field-Marshal Lord Roberts threatened reprisals for wanton damage to property, and damage to railway and telegraph lines, by the burning of houses and farms in the vicinity of the places where the damage was done.

During the Great War, 1914-1918, the principle of taking reprisals was condemned by the British Government, and few were taken by Great Britain. The following are, however, examples of reprisals taken:—

(i) In April, 1916, the German Government, in consequence of alleged bad treatment of German prisoners in the camp at Saint Angean, sent 250 French officers to a reprisal camp at Voehrenbach.

(ii) In May and June, 1916, some 30,000 French prisoners of war were transferred to the Baltic and Polish provinces of Russia in consequence of alleged bad treatment of German prisoners of war in France.

³ On the surrender of Port Arthur, 1905, all the fortifications and forts on three hills and on the highlands and on the south-east of them were handed over to the Japanese Army "by way of guarantee" (art. 3, Takahashi, 1908, p. 212).

To ensure the fulfilment of the conditions of the preliminaries of peace signed at Versailles at the end of the war of 1870-1, the Germans continued to occupy a portion of eastern France, handing it back section by section as the payment of the indemnity was completed (art. 3 of the preliminary Treaty of Peace).

⁴ In France, in 1870-1, by the Germans (see *Kriegsbrauch*, 1902, p. 50, where it was praised for its complete success, "whether due to the greater watchfulness of the parishes or to its influence on the population, the safety of traffic was restored").

A proclamation with a section authorising a similar measure was issued by Field-Marshal Lord Roberts, at Pretoria, on 9th June, 1900; this section was, however, withdrawn eight days afterwards.

communication in occupied territory for the purpose of ensuring the traffic from interruption by the native population. Ch. XIV

463. Such measures expose the lives of innocent inhabitants not only to the illegitimate acts of train wrecking by private enemy individuals, but also to the lawful operations of raiding parties of the armed forces of the belligerent, and cannot therefore be considered a commendable practice.

464. It would appear to be legitimate to take inhabitants as hostages for the proper treatment of wounded and sick when these are left behind in hostile localities. A similar course might become necessary if prisoners have fallen into the hands of irregular troops, or of inhabitants who have risen in arms, since there might be fear for their maltreatment.¹ Hostages
for
prisoners.

XI.—RIGHTS AND DUTIES OF NEUTRAL POWERS² AND PERSONS.

(i) *General Principles.*

465. Neutrality imposes duties on neutrals as well as on belligerents. The duties of neutral States are:—to abstain from participation in the conflict and from committing any act that favours or assists one of the belligerents in matters that affect the war, and to afford impartial treatment to all of them in permitting, granting, or refusing facilities in matters that do not directly concern operations. The duties of belligerents are:—to respect the territory of neutral States and not to suppress their intercourse with the enemy. Neutrality can therefore be violated as well by a belligerent as by a neutral. General
duties of
neutrality.

466. The application of these principles to the relations between belligerent and neutral States gives rise to many important questions, not only of a military and naval, but of a political, commercial, and maritime nature. It is here, however, only necessary to consider the rights and duties of belligerents and neutrals in so far as they affect land warfare. The written law concerning this is contained in the "Convention respecting the Rights and Duties of Neutral Powers and Persons in War on Land" which was agreed upon at the Peace Conference of 1907.³

467. The consideration of the subject may be divided into the following headings:—neutral territory and military operations; neutral territory and recruiting; neutral territory and supplies; neutral territory and the transmission of information; internment of belligerent forces in neutral territory; neutral territory and prisoners of war; neutral territory and sick and wounded; neutral persons and property; railway material of neutral Powers. Division of
subject.

¹ In 1870-1 the Germans took hostages at Châtillon for 200 prisoners in the hands of Riciottoli Garibaldi, who had threatened to kill them, and at Remiremont for certain railway officials who had been carried off (Von Widdern, III, p. 61, and IV, 2, p. 41).

If necessary hostages may be taken to ensure compliance with requisitions, contributions, and the like, but this has nothing to do with illegitimate warfare.

² A neutral Power is a State which is not taking part in the war.

³ This Convention, though it was signed (with reserve of three articles, 16, 17, and 18) by the British delegates at the Hague, has not yet received the ratification of H.M. the King. Certain legislation which has not yet taken place is necessary before this act can be accomplished. The contents of the Convention, with the exception of the three articles above named are, however, binding in the case of war, as on the whole they merely record the customary law of war on the subject. For text of Convention see App. 7 to this chapter.

Ch. XIV

(ii) *Neutral Territory and Military Operations.*

Neutral
territory
may not be
violated.

468. The territory of a neutral power must not be violated by belligerents¹ and must not, therefore, be made a theatre of operations. Belligerents are expressly forbidden to move troops or convoys, whether of military stores or supplies, across it.² Any attack on enemy forces which may have taken refuge on it is a violation of neutrality. Should, however, one belligerent violate neutral territory by marching troops across it and the neutral power be unable or unwilling to resist the violation, the other belligerent may be justified in attacking the enemy there.³

Internment
of bellige-
rent forces
if they enter.

469. A neutral state need not permit troops belonging to the forces of the belligerents to take refuge on its territory. If, however, permission is given, it is the duty of the neutral State to intern such troops⁴ and prevent them from taking any further part in the conflict.⁵

Duties of
neutral
power
whose
territory is
threatened.

470. A neutral power must not allow, and may even resist by force, any attempt to violate its neutrality. Such resistance cannot be regarded as a hostile act,⁶ for it is the duty of the neutral state.

471. It is quite usual, therefore, for a neutral power, whose territory is adjacent to a theatre of war, to mobilize a portion of its forces in order to ensure the inviolability of its frontiers.⁷ It may in fact become the duty of the neutral power to do so in order that one belligerent may not have an advantage over the other through an unresisted use of neutral territory.⁸

(iii) *Neutral Territory and Recruiting.*

Organisa-
tion of
expeditions
in neutral
territory.

472. The recruiting, formation, and organization of hostile expeditions on neutral territory and the passage across its frontier of organized bodies of men intending to enlist, are prohibited. If any persons are found attempting to cross the frontier, and if their number, attitude, continuous march, or other circumstances point to the existence of an organization which has hitherto escaped the

¹ Neutrality Convention, art. 1.

² Neutrality Convention, art. 2.

³ The circumstances under which Manchuria and Korea became the theatre of war were peculiar and exceptional, arising out of the inability of China and Korea to free themselves from Russian occupation and influence. The very purpose of the War was the expulsion of the Russians from Manchuria and Korea.

⁴ Neutrality Convention, art. 11.

⁵ The historic example of this is the internment in Switzerland of the whole of General Bourbaki's army, 85,000 men strong, with 10,000 horses, as soon as it had passed (in accordance with a Convention between the French general Clinchant and the Swiss general Herzog) the frontier near Pontarlier, January-February, 1871 (see para. 486 and note below). The individual officers and soldiers who entered Belgian territory after the battle of Sedan were likewise interned.

During the Great War, 1914-1918, a brigade of the Naval Division was interned in Holland. (See Official History, Vol. II, pp. 60-61.) (For details as regards internment see para. 486 below.)

⁶ Neutrality Convention, arts. 10 and 11; Hague Conference, 1907, *Actes*, Vol. I, p. 146. Thus, in 1806, the Danes made a cordon along the frontier near Lubeck, "with arms in their hands to make their neutrality respected." They fired on the French troops who were pursuing the Prussians. (Murat to Napoleon, 6th November, 1806, *Lettres et Documents pour servir à l'histoire de Joachim Murat*, Vol. IV, Despatch 2639.)

⁷ As Belgium and Switzerland did in 1870-1, and Holland and Switzerland in 1914-1918.

⁸ In December, 1870, Germany complained to the Grand Duchy of Luxembourg that no measures had been taken to prevent the violation of its neutrality, and that numerous French soldiers had passed through its territory. Luxembourg, however, was able to meet the complaint by pointing out that by the Treaty of London, 1867, she was prevented from maintaining an army.

notice of the authorities, the neutral state must be on its guard and do its best to prevent the formation of similar bodies in its territory. On the other hand, a neutral state is not in duty bound to prevent the passage across its frontier of such men intending to enlist, as cross the frontier singly or in small unorganized parties.¹

Ch. XIV

473. The nationality of the persons who may attempt to cross the frontier for the purpose of enlisting is not material. This applies even to subjects of the belligerent states returning to their country to fulfil military duties.²

474. It is, however, no violation of neutrality to permit medical units organized by recognized and authorized Voluntary Aid Societies to join one of the belligerents, provided that he is willing to accept their services and that he notifies the other belligerent.³

Voluntary
Aid
Societies.

475. The duty of neutrality does not compel neutral states to take measures to prevent their subjects from joining the military service of a belligerent. Several states, as for instance Great Britain and the United States, have nevertheless taken such measures by their municipal legislation⁴; and others, like France and the Netherlands, without actually prohibiting their subjects from joining a belligerent, impose the penalty of loss of citizenship, or of civil rights, for so doing.⁵

Joining of
belligerents
by subjects
of neutral
States.

476. It is the duty of neutral powers to restrain their military and naval officers on the active list, with the exception of medical officers, from joining a belligerent, and to recall any such officers as have been lent to the belligerents before the outbreak of war.⁶

(iv) *Neutral Territory and Supplies.*

477. It has already been stated that belligerent powers are forbidden to move convoys of warlike stores and supplies across the territory of a neutral state.⁷ It is not forbidden, however, to obtain arms, ammunition, and stores from subjects of neutral states through the usual commercial channels. Nor is a neutral power bound to prevent such supply to belligerents on the part of

Purchase
arms and
supplies.

¹ Neutrality Convention, arts. 4, 5, paras. 2 and 6, and Hague Conference, 1907, *Actes*, Vol. III, p. 54. Even though several persons cross the frontier together, they must be held to be acting *isolément* (art. 6), so long as they do not obviously form part of an organized body recognizable as such. (Hague Conference, 1907, *Actes*, Vol. III, p. 56.)

² Hague Conference, 1907, *Actes*, Vol. III, p. 55. Thus, in 1870, Switzerland raised no objection to Frenchmen travelling through Geneva or Germans through Basle for the purpose of reaching their corps, on condition that they travelled without arms and not in uniform; but an office organised in Basle for the purpose of sending bodies of Alsatian volunteers through Switzerland to the south of France was rightly prohibited. The United States raised no objection in August, 1870, to the departure from New York on British ships of a number of German subjects resident in the Republic who had been recalled to the reserve, although the recalling was carried out through the instrumentality of the German consuls.

³ Red Cross Convention, art. 11. See para. 182 above.

⁴ See s. 4 of the Foreign Enlistment Act, 1870. The penalty is fine and imprisonment, with or without hard labour.

⁵ When war occurs neutral Powers usually issue so-called "proclamations of neutrality," in which they state their full determination to observe the duties of neutrality and warn their subjects of the penalties they incur by joining or assisting the belligerents. For the British proclamation at the commencement of the Russo-Japanese War, in which the Foreign Enlistment Act was recited at length, see the *London Gazette* of 11th February, 1904.

⁶ Thus, in 1896, Germany, as soon as it was brought to notice, ordered back and punished Major Reitzenstein and other officers on the active list who had joined the forces of the South African Republic. On the other hand, in 1876, Russia permitted officers in large numbers to enter the Servian Army during the war against Turkey, but she withdrew her officers in Bulgarian service on the outbreak of the war with Servia in 1887.

⁷ Para. 468 above.

Ch. XIV companies and private individuals, of whatever nationality, settled on its territory, or stop the export or transit of warlike stores or of anything that could be of use to an army or fleet.¹

Loans. **478.** A neutral state is not bound to prevent its subjects from making loans to belligerents for the purpose of enabling them to continue the war.²

Duty of neutral powers. **479.** The duty of neutrality, however, forbids neutral powers themselves to supply, or to present funds or material to, a belligerent.

Restrictions must be impartial. **480.** A neutral power is at liberty to forbid or restrict the commercial dealings of its subjects and persons resident in its territory with belligerents, but if it does so it must apply the prohibition or restriction impartially to both belligerents.³

(v) *Neutral Territory and the Transmission of Information.*

Use of posts and telegraphs. **481.** Neutrality is not violated by a belligerent using, and the neutral power permitting the use in its territory of, the postal and telegraph (including wireless) and telephone services open to the public. It is immaterial whether such services are operated by and belong to the neutral state, companies, or private individuals.⁴ This does not imply the right of using them, or permitting them to be used, in such a way as obviously to render assistance to one of the belligerents.⁵

Intelligence agents. **482.** Although a neutral state must prevent the establishment by a belligerent of an official bureau for intelligence purposes on its territory, it need not prevent the supplying of information by private individuals resident there.

Restriction must be impartial. **483.** A neutral power, however, is at liberty to forbid or restrict the use on behalf of belligerents of all the facilities that have been mentioned. In any case it must apply the prohibition or restriction impartially to both belligerents. Should the telegraph and the other services not be owned by the state, the neutral power is specially bound to see that impartiality is observed by the company or private owners concerned.⁶

Installation of telegraph and other apparatus after outbreak of hostilities. **484.** Although belligerents may thus be permitted the benefit of services "opened to the use of the public," they are expressly forbidden to instal after the outbreak of war, and a neutral state must prevent them from installing on its territory, any wireless telegraphy station or any apparatus for the purpose of communicating. A neutral state must also prevent belligerents from using a station or apparatus already established in time of peace on its

¹ Neutrality Convention, art. 7, and Hague Conference, 1907, *Actes*, Vol. I, pp. 141, 138.

² Neutrality Convention, art. 18 (a). In 1904, during the Russo-Japanese War, Japanese loans were floated in London and Berlin, and Russian loans in Paris and Berlin.

³ Neutrality Convention, art. 9. In 1870, in order to avoid controversy, Belgium and Switzerland by their municipal laws prohibited their nationals from supplying the belligerents. The British Foreign Enlistment Act forbids the supply of ships and naval equipment and armaments to a belligerent.

⁴ Neutrality Convention, art. 8; postal services are not mentioned, but are obviously not excluded, as the more expeditious means are permitted.

⁵ Hague Conference, 1907, *Actes*, Vol. III, p. 56. For instance, by keeping the offices open at abnormal hours and giving a Belligerent's messages priority.

⁶ Neutrality Convention, arts. 7, 8 and 9.

⁷ This expression has been borrowed from the Wireless Telegraph Convention of 1906, and is intended to serve as a convenient test of the commercial and non-military character of an installation. (Hague Conference, 1907, *Actes*, Vol. I, p. 139.)

territory, if such station or apparatus is exclusively for military purposes, and was not previously open to the public.¹ Ch. XIV
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(vi) *The Internment of Belligerent Forces in Neutral Territory.*

485. Neutral territory being inviolable affords sanctuary to members of the armed forces, to the war material of belligerents, and to private citizens of the belligerent States and their property. It is not a violation of neutrality to receive them and, if they are pursued, to compel the other party to stand fast on the frontier. A neutral power, however, which receives belligerent troops on its territory, must intern them for the rest of the war, as far as possible at a distance from the theatre of operations²; they are not permitted to rest, refresh, and re-equip themselves, and return to the conflict. Duty of internment.

486. The neutral power which allows individual soldiers or bodies of troops to take refuge on its territory has the indisputable right to lay down the conditions upon which they may enter. In the case of large bodies of troops it is usual for the commander and a representative of the neutral power to draw up a convention in which the exact conditions are fixed and recorded.³ The first condition will naturally be that they shall give up their arms. Condition of internment.

487. Practically the interned troops are in many respects in the position of prisoners of war, and the rules concerning prisoners of war apply to them in a general way.⁴ They may be kept in camps, or even confined in fortresses or in places assigned for the purpose,⁵ and under such guard as is necessary in order to secure that they take no further part in the war. Even if no special convention has been made, the neutral power must supply them with proper food, clothing, and assistance in sickness, recovering the cost at the conclusion of peace.⁶ Position of interned troops.

488. The neutral power may allow the interned officers, but not the non-commissioned officers and men, their liberty on their giving their parole not to leave the neutral territory without Parole.

¹ Neutrality Convention, art. 3.

An international commission of jurists sitting at the Hague in the spring of 1923 prepared a draft code of the "Rules for the control of radio in time of war." These rules have not yet been ratified. They are of some special importance from the point of view of neutrals and when ratified will bring the laws of war up to date as far as the science of wireless telegraphy is concerned.

² Neutrality Convention, art. 11. It may be noted here that according to the Convention for the Adaptation of the Principles of the Geneva Convention to Maritime Warfare, 1907, (which has not yet been ratified by H.M. the King), sick, wounded, and shipwrecked soldiers, if taken on board a neutral man of war, are in the same position as if on neutral territory. But if they are on a hospital ship or a private neutral vessel they must be given up on demand of the other belligerent. Once landed at a neutral port, however, they can no longer be claimed. (Arts. 11-15.)

³ Thus on 1st February, 1871, General Clinchant, who had succeeded to the command of General Bourbaki's army when that commander had shot himself, concluded a convention with the Swiss general Herzog. By this the French Army, pursued by General Manteuffel, was permitted to enter Switzerland on condition of giving up its artillery, arms, equipment and ammunition, which were to be restored to France after peace, and on payment of the expenses incurred by Switzerland. Supply and transport wagons were permitted to return to France empty, while the post and treasury wagons, as well as the military chests, were handed over to the Confederation on the same terms as the arms and equipment. The text of the Convention is given in App. 21 to this chapter.

⁴ See para. 54 *et seq.* Art. 77 of the Prisoners of War Convention specially refers to the duty of neutrals to institute a prisoners of war information bureau when necessary.

⁵ Neutrality Convention, art. 11, para. 2.

⁶ Neutrality Convention, art. 12.

Ch. XIV — permission.¹ No conditions, however, are laid down under which such permission is to be given, and no penalties are mentioned if the parole be broken. The granting of leave to an interned officer to return to his own country, even temporarily only, for any reason, is not mentioned either, and may therefore be considered a very exceptional measure. A neutral State desirous of according such permission would be well advised in the first instance to obtain the consent of the other belligerent.²

Medical personnel.

489. Members of the medical personnel serving with troops which cross into neutral territory can claim to be sent back to their army or their country as soon as their assistance is no longer indispensable for the care of the sick and wounded.³

(vii) *Prisoners of War in Neutral Territory.*

Prisoners who take refuge in neutral territory.

490. Prisoners of war who succeed in escaping into neutral territory regain their liberty, but they cannot claim to remain there. It rests with the neutral State whether it will grant or refuse them admission, and in the latter case whether or not it will allow them to remain on its territory. If they are permitted to remain the neutral State may compel them to make their residence in a specified locality.⁴

Prisoners brought into neutral territory.

491. Prisoners of war brought into neutral territory by troops which take refuge there regain their liberty, but they must be treated by the neutral Power in the same way as prisoners of war who have escaped.⁵

Captured war material.

492. On the other hand, captured war material found in possession of troops which take refuge in neutral territory is treated as the property of their army,⁶ its origin being ignored.

(viii) *Neutral Territory and the Sick and Wounded.*

Passage of sick and wounded.

493. A neutral Power may permit the passage of sick and wounded of belligerent armies through its territory without failing in its duties of neutrality.⁷

494. There is no obligation on the part of the neutral Power to permit the passage, but if the privilege is accorded at all it must be given to both belligerents impartially.⁸

Considerations of humanity.

495. It is obvious that in facilitating the evacuation of sick and wounded a neutral Power can render valuable indirect assistance to a belligerent. It was, however, officially explained at the Peace

¹ Neutrality Convention, art 11, para. 3.

² Hague Conference, 1907, *Actes*, Vol. I, p. 147. As regards parole generally, see para. 110 above.

³ This follows indirectly from Red Cross Convention, art. 13, for if the medical personnel can claim this from the enemy, they must certainly be allowed to claim it from a neutral. See also para. 501 below.

⁴ Neutrality Convention, art. 13, para. 1, and Hague Conference 1907, *Actes*, Vol. I, pp. 143, 144.

⁵ Neutrality Convention, art. 13, para. 2.

⁶ Hague Conference, 1907, *Actes*, Vol. I, p. 145.

⁷ Neutrality Convention, art. 14. It will be observed that "sur son territoire" is rendered in the translation as "into its territory." Art. 14 was originally art. 50 of the Convention respecting the Laws and Customs of War on Land drawn up at the Hague in 1864, and the official translation of the same phrase in that Convention is "through its territory." This appears to give the sense better, for "into" might appear to preclude any idea of the sick and wounded leaving the territory.

⁸ Hague Conference, 1864, p. 153.

Conference in 1899 that the article concerned had no other meaning than "to establish that considerations of humanity and hygiene might determine a neutral State to permit sick and wounded soldiers to cross its territory without failing in its duties of neutrality."¹

Ch. XIV

496. It does not appear to be necessary to obtain the consent of the other belligerent. If, however, the passage of any considerable body of sick and wounded is contemplated, it would be advisable to inform him before according the permission.²

Consent of other belligerents.

497. If the sick and wounded belong to the army of the belligerent who is transporting them through the neutral State, they may be allowed to go through to their own country.³

Differentiation according to status of the sick and wounded.

498. If instead of simply transporting them through neutral territory the belligerent concerned hands them over to the neutral Power, they must be detained by this Power so as to prevent their taking further part in the military operations.

499. Sick and wounded prisoners of war belonging to the adverse party who are brought into neutral territory by a belligerent may not be carried through to his territory, nor may they be liberated like prisoners of war brought into neutral territory by belligerent troops taking refuge there. They must be detained by the neutral State in the same way as sick and wounded of the other party who are left in its territory.⁴

500. If a neutral Power permits the passage of sick and wounded through its territory, it must make a condition that no combatants or war material accompany them. It must, further, take such measures as may be necessary to ensure that this condition is carried out.⁵ This condition, however, does not exclude such personnel and material as are required for the care of the sick and wounded.⁶

Limitations as regards accompanying personnel, &c.

501. The provisions of the Red Cross Convention apply to sick and wounded who are interned in neutral territory.⁷ The position of the medical personnel with them is regulated by the conditions under which it was admitted. Failing a special agreement a neutral State would be justified in detaining a sufficient number of the medical personnel to take care of the sick and wounded. If, however, a sufficient number is not available it is the duty of the neutral State to supply the necessary medical attendance and hospital accommodation; the expenses must be refunded after the war by the belligerent concerned.⁸

Medical personnel.

¹ Hague Conference, 1899, p. 153.

² The French Manual, 1893, p. 82, says:—"Neutral States abstain from authorizing the transit of convoys of sick and wounded until the consent of the belligerents has been obtained."

After the battle of Sedan, the German General Staff wished to send railway trains conveying wounded to Germany through Belgium and Luxemburg: the French Minister of War however, protested, as he argued rightly that this would free lines to bring up men and ammunition. Belgium, after consulting the British Government, came to the conclusion that, if one of the belligerents objected, the giving of permission would be a breach of neutrality and therefore refused it. Luxemburg allowed it.

³ Neutrality Convention, art. 14, para. 2, and Hague Conference, 1899, pp. 152-3.

⁴ Neutrality Convention, art. 14, para. 2.

⁵ Neutrality Convention, art. 14, para. 1.

⁶ Hague Conference, 1899, 2nd committee, 2nd sub-committee, sixth meeting.

⁷ Neutrality Convention, art. 15. See paras. 485-489.

⁸ Neutrality Convention, art. 12.

Ch. XIV

(ix) *Neutral Persons.*

Neutral persons in occupied territory.

502. Neutral persons resident in occupied territory¹ acquire thereby, in a sense, the character of enemy persons and are on the whole not entitled to claim treatment different from that accorded to the other inhabitants. It may be politic, however, to give them more favourable treatment. They on their part should maintain an absolute reserve as regards the war.

Diplomatic agents.

503. Special instructions will usually be issued with regard to diplomatic agents and their correspondence; they must in any case be allowed to withdraw unmolested from occupied territory.²

Consuls.

504. Consuls are not diplomatic agents and cannot therefore claim any privileges due to the latter.³ Failing special instructions, they should be treated with such consideration as is due to them in consequence of their position at the head of the subjects of the neutral Power who are resident in the locality concerned.

Transitory visitors.

505. Subjects of neutral Powers not resident but only on a transitory visit within occupied territory can, to a certain extent, claim different treatment from that accorded to inhabitants, provided they take no part in the war. For instance, they are as a rule exempt from requisitions and contributions, and, if their property is required for military ends and needs, they must be fully indemnified.⁴

Punishments.

506. Subjects of neutral Powers, whether resident or only on a visit in occupied territory, may be punished for offences in the same manner as enemy subjects. They may be expelled or deported for just cause, but residents ought not to be expelled or deported without a special order of the Government or commander-in-chief of the occupying army.⁵ Such residents may, under the same conditions as other inhabitants, be taken into captivity.

(x) *Neutral Railway Material.*

Special treatment.

507. Railway material originating from neutral territory, whether it be the property of the neutral Government, companies, or private persons, provided it is recognizable as belonging to them, must not be requisitioned or utilized except in so far as it is absolutely necessary. It must be sent back to the country of origin as soon as possible.⁶

¹ As regards neutral persons who are transitory, see para. 505 below.

As regards neutrals resident in British territory "we will treat them on a footing of equality with our own countrymen." British Declaration at the Hague Conference, 1907; *Acts*, Vol. III, p. 43.

² It is not settled whether a neutral diplomatic agent can claim to send messengers with sealed despatches through the lines of the occupant. When in 1870, during the siege of Paris, Mr. Washburne, the American envoy, raised this claim, the Germans refused to acknowledge it. (Washburne, 1905, p. 193.) For Count Bismarck's reply, see para. 132, note.

³ Consuls in non-Christian States, Japan excepted, can claim the same privileges as diplomatic envoys.

⁴ An interesting case of this nature happened during the Franco-German War, in December, 1870. The Germans seized some British colliers lying in the Seine near Rouen and sank them for the purpose of preventing French gunboats from ascending the river. The owners were indemnified on the intervention of the British Government, although Count Bismarck maintained that there was no legal duty to do so. Rolling stock, the property of foreign railways, which may be in a theatre of war, is dealt with in para. 507, *et seq.*

⁵ In such cases, if military exigencies permit, they should be given reasonable time to adjust or hand over their private affairs.

⁶ Neutrality Convention, art. 19.

508. If railway material is thus detained, the neutral Power may, likewise in case of necessity, keep and utilize a corresponding amount of material originating from the territory of the belligerent Power.¹

Ch. XIV
Power to detain equivalent.

509. The retention of this material by the neutral Power must not assume the character of retaliation. The right must be exercised only in case of necessity, up to the due amount, and with strict impartiality between the two belligerents.

No retaliation.

510. Compensation must be paid on either side according to the amount of material retained and the length of time it was retained.²

Compensation.

By Command of the Army Council,



THE WAR OFFICE,

31st January, 1936.

¹ Hague Conference, 1907, *Actes*, Vol. I, p. 58.
² Neutrality Convention, art. 19, para. 3.

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Notified in Army Orders for January, 1936

Ch. XIV

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App. 28

FOR PRISONERS OF WAR CONVENTION

1929—see Page 8.

MANUAL OF MILITARY LAW

1929

AMENDMENTS (No. 13)

Page 414. *Insert new appendices :—*

APPENDIX 23.

Amend. 13

Jan. 1936.

INTERNATIONAL CONVENTION FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMIES IN THE FIELD.

(Signed at Geneva, July 27th, 1929.)

(British Ratification deposited June 23rd, 1931.)

His Majesty the King of the United Kingdom of Great Britain and Ireland,
Emperor of India ;

Here follows the list of other Sovereigns and heads of States who sent
Plenipotentiaries to the Conference.)

Being equally animated by the desire to lessen, so far as lies in their power, the evils inseparable from war and desiring, for this purpose, to perfect and complete the provisions agreed to at Geneva on the 22nd August, 1864, and the 6th July, 1906,* for the amelioration of the condition of the wounded and sick in armies in the field,

Have resolved to conclude a new Convention for that purpose and have appointed as their plenipotentiaries :

(Here follow the list of Plenipotentiaries.)

Who, after having communicated to each other their full powers, found in good and due form, have agreed as follows :—

Chapter I.—Wounded and Sick.

Art. 1. Officers and soldiers and other persons officially attached to the armed forces who are wounded or sick shall be respected and protected in all circumstances ; they shall be treated with humanity and cared for medically without distinction of nationality, by the belligerent in whose power they may be.

Nevertheless, the belligerent who is compelled to abandon wounded or sick to the enemy, shall, as far as military exigencies permit, leave with them a portion of his medical personnel and material to help with their treatment.

Art. 2. Except as regards the treatment to be provided for them in virtue of the preceding article, the wounded and sick of an army who fall into the hands of the enemy shall be prisoners of war, and the general provisions of international law concerning prisoners of war shall be applicable to them.

Belligerents shall, however, be free to prescribe, for the benefit of wounded or sick prisoners, such arrangements as they may think fit beyond the limits of the existing obligations.

Ch. XIV

App. 22

Art. 3. After each engagement the occupant of the field of battle shall take measures to search for the wounded and dead, and to protect them against pillage and maltreatment.

Whenever circumstances permit, a local armistice or a suspension of fire shall be arranged to permit the removal of the wounded remaining between the lines.

Art. 4. Belligerents shall communicate to each other reciprocally, as soon as possible, the names of the wounded, sick and dead, collected or discovered, together with any indications which may assist in their identification.

They shall establish and transmit to each other the certificates of death.

They shall likewise collect and transmit to each other all articles of a personal nature found on the field of battle or on the dead, especially one half of their identity discs, the other half to remain attached to the body.

They shall ensure that the burial or cremation of the dead is preceded by a careful, and if possible medical, examination of the bodies, with a view to confirming death, establishing identity and enabling a report to be made.

They shall further ensure that the dead are honourably interred, that their graves are respected and marked so that they may always be found.

To this end, at the commencement of hostilities, they shall organise officially a graves registration service, to render eventual exhumations possible and to ensure the identification of bodies whatever may be the subsequent site of the grave.

After the cessation of hostilities they shall exchange the list of graves and of dead interred in their cemeteries and elsewhere.

Art. 5. The military authorities may appeal to the charitable zeal of the inhabitants to collect and afford medical assistance, under their direction, to the wounded or sick of armies, and may accord to persons who have responded to this appeal special protection and certain facilities.

Chapter II.—*Medical Formations and Establishments.*

Art. 6. Mobile medical formations, that is to say, those which are intended to accompany armies in the field, and the fixed establishments of the medical service shall be respected and protected by the belligerents.

Art. 7. The protection to which medical formations and establishments are entitled shall cease if they are made use of to commit acts harmful to the enemy.

Art. 8. The following conditions are not considered to be of such a nature as to deprive a medical formation or establishment of the protection guaranteed by article 6:—

- (1) that the personnel of the formation or establishment is armed, and that they use the arms in their own defence or in that of the sick and wounded in charge;
- (2) that in the absence of armed orderlies the formation or establishment is protected by a piquet or by sentries;
- (3) that small arms and ammunition taken from the wounded and sick, which have not yet been transferred to the proper service, are found in the formation or establishment;
- (4) that personnel and material of the veterinary service are found in the formation or establishment, without forming an integral part of the same.

Chapter III.—*Personnel.*

Art. 9. The personnel engaged exclusively in the collection, transport and treatment of the wounded and sick, and in the administration of medical formations and establishments, and chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy they shall not be treated as prisoners of war.

Soldiers specially trained to be employed, in case of necessity, as auxiliary nurses or stretcher-bearers for the collection, transport and treatment of the wounded and sick, and furnished with a proof of identity, shall enjoy the same treatment as the permanent medical personnel if they are taken prisoners while carrying out these functions.

Art. 10. The personnel of Voluntary Aid Societies, duly recognised and authorised by their Government, who may be employed on the same duties as those of the personnel mentioned in the first paragraph of article 9, are placed on the same footing as the personnel contemplated in that paragraph, provided that the personnel of such societies are subject to military law and regulations.

Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during the course of hostilities, but in

every case before actually employing them, the names of the societies which it has authorised, under its responsibility, to render assistance to the regular medical service of its armed forces.

Art. 11. A recognised society of a neutral country can only afford the assistance of its medical personnel and formations to a belligerent with the previous consent of its own Government and the authorisation of the belligerent concerned.

The belligerent who accepts such assistance is bound to notify the enemy thereof before making any use of it.

Art. 12. The persons designated in articles 9, 10 and 11 may not be retained after they have fallen into the hands of the enemy.

In the absence of an agreement to the contrary, they shall be sent back to the belligerent to which they belong as soon as a route for their return shall be open and military considerations permit.

Pending their return they shall continue to carry out their duties under the direction of the enemy; they shall preferably be engaged in the care of the wounded and sick of the belligerent to which they belong.

On their departure, they shall take with them the effects, instruments, arms and means of transport belonging to them.

Art. 13. Belligerents shall secure to the personnel mentioned in articles 9, 10 and 11, while in their hands, the same food, the same lodging, the same allowances and the same pay as are granted to the corresponding personnel of their own armed forces.

At the outbreak of hostilities the belligerents will notify one another of the grades of their respective medical personnel.

Chapter IV.—*Buildings and Material.*

Art. 14. Mobile medical formations, of whatsoever kind, shall retain, if they fall into the hands of the enemy, their equipment and stores, their means of transport and the drivers employed.

Nevertheless, the competent military authority shall be free to use the equipment and stores for the care of the wounded and sick; it shall be restored under the conditions laid down for the medical personnel, and as far as possible at the same time.

Art. 15. The buildings and material of the fixed medical establishments of the army shall be subject to the laws of war, but may not be diverted from their purpose so long as they are necessary for the wounded and the sick.

Nevertheless, the commanders of troops in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are being treated therein.

Art. 16. The buildings of aid societies which are admitted to the privileges of the Convention shall be regarded as private property.

The material of these societies, wherever it may be, shall similarly be considered as private property.

The right of requisition recognised for belligerents by the laws and customs of war, shall only be exercised in case of urgent necessity and only after the welfare of the wounded and sick has been secured.

Chapter V.—*Medical Transport.*

Art. 17. Vehicles equipped for the evacuation of wounded and sick, proceeding singly or in convoy, shall be treated as mobile medical formations, subject to the following special provisions:—

A belligerent intercepting vehicles of medical transport, singly or in convoy, may, if military exigencies demand, stop them, and break up the convoy, provided he takes charge in every case of the wounded and sick who are in it. He can only use the vehicles in the sector where they have been intercepted, and exclusively for medical requirements. These vehicles, as soon as they are no longer required for local use, shall be given up in accordance with the conditions laid down in article 14.

The military personnel in charge of the transport and furnished for this purpose with authority in due form, shall be sent back in accordance with the conditions prescribed in article 12 for medical personnel, subject to the condition of the last paragraph of article 18.

All means of transport specially organised for evacuation and the material used in equipping these means of transport belonging to the medical service shall be restored in accordance with the provisions of Chapter IV. Military means of transport other than those of the medical service may be captured, with their teams.

Ch. XIV

—

App. 20

Ch. XIV

App. 28

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

Art. 18. Aircraft used as means of medical transport shall enjoy the protection of the Convention during the period in which they are reserved exclusively for the evacuation of wounded and sick and the transport of medical personnel and material.

They shall be painted white and shall bear, clearly marked, the distinctive emblem prescribed in article 19, side by side with their national colours, on their lower and upper surfaces.

In the absence of special and express permission, flying over the firing line, and over the zone situated in front of clearing or dressing stations, and generally over all enemy territory or territory occupied by the enemy, is prohibited.

Medical aircraft shall obey every summons to land.

In the event of a landing thus imposed, or of an involuntary landing in enemy territory or territory occupied by the enemy, the wounded and sick, as well as the medical personnel and material, including the aircraft, shall enjoy the privileges of the present Convention.

The pilot, mechanics and wireless telegraph operators captured shall be sent back, on condition that they shall be employed until the close of hostilities in the medical service only.

Chapter VI.—*The Distinctive Emblem.*

Art. 19. As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the medical service of armed forces.

Nevertheless, in the case of countries which already use, in place of the Red Cross; the Red Crescent or the Red Lion and Sun on a white ground as a distinctive sign, these emblems are also recognised by the terms of the present Convention.

Art. 20. The emblem shall figure on the flags, armlets, and on all material belonging to the medical service, with the permission of the competent military authority.

Art. 21. The personnel protected in pursuance of articles 9 (paragraph 1), 10 and 11, shall wear, affixed to the left arm, an armlet bearing the distinctive sign, issued and stamped by a military authority.

The personnel mentioned in article 9, paragraphs 1 and 2, shall be provided with a certificate of identity, consisting either of an entry in their small book (paybook) or a special document.

The persons mentioned in articles 10 and 11 who have no military uniform shall be furnished by the competent military authority with a certificate of identity, with photograph, certifying their status as medical personnel.

The certificates of identity shall be uniform and of the same pattern in each army.

In no case may the medical personnel be deprived of their armlets or the certificates of identity belonging to them.

In case of loss they have the right to obtain duplicates.

Art. 22. The distinctive flag of the Convention shall be hoisted only over such medical formations and establishments as are entitled to be respected under the Convention, and with the consent of the military authorities. In fixed establishments it shall be, and in mobile formations it may be, accompanied by the national flag of the belligerent to whom the formation or establishment belongs.

Nevertheless, medical formations which have fallen into the hands of the enemy, so long as they are in that situation, shall not fly any other flag than that of the Convention.

Belligerents shall take the necessary steps, so far as military exigencies permit, to make clearly visible to the enemy forces, whether land, air, or sea, the distinctive emblems indicating medical formations and establishments, in order to avoid the possibility of any offensive action.

Art. 23. The medical units belonging to neutral countries which shall have been authorised to lend their services under the conditions laid down in article 11, shall fly, along with the flag of the Convention, the national flag of the belligerent to whose army they are attached.

They shall also have the right, so long as they shall lend their services to a belligerent, to fly their national flag.

The provisions of the second paragraph of the preceding article are applicable to them.

Art. 24. The emblem of the red cross on a white ground and the words "Red Cross" or "Geneva Cross" shall not be used, either in time of peace or in time of war, except to protect or to indicate the medical formations and establishments and the personnel and material protected by the Convention.

The same shall apply, as regards the emblems mentioned in article 19, paragraph 2, in respect of the countries which use them.

The Voluntary Aid Societies mentioned in article 10, may, in accordance with their national legislation, use the distinctive emblem in connexion with their humanitarian activities in time of peace.

As an exceptional measure, and with the express authority of one of the national societies of the Red Cross (Red Crescent, Red Lion and Sun), use may be made of the emblem of the Convention in time of peace to mark the position of aid stations exclusively reserved for the purpose of giving free treatment to the wounded or the sick.

Ch. XIV

—

App. 22

Chapter VII.—*Application and Execution of the Convention.*

Art. 25. The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances. If, in time of war, a belligerent is not a party to the Convention, its provisions shall, nevertheless, be binding as between all the belligerents who are parties thereto.

Art. 26. The Commanders-in-Chief of belligerent armies shall arrange the details for carrying out the preceding articles, as well as for cases not provided for, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

Art. 27. The High Contracting Parties shall take the necessary steps to instruct their troops, and in particular the personnel protected, in the provisions of the present Convention, and to bring them to the notice of the civil population.

Chapter VIII.—*Suppression of Abuses and Infractions.*

Art. 28. The Governments of the High Contracting Parties whose legislation is not at present adequate for the purpose, shall adopt or propose to their legislatures the measures necessary to prevent at all times :—

- (a) the use of the emblem or designation "Red Cross" or "Geneva Cross" by private individuals or associations, firms or companies, other than those entitled thereto under the present Convention, as well as the use of any sign or designation constituting an imitation, for commercial or any other purposes ;
- (b) by reason of the compliment paid to Switzerland by the adoption of the reversed federal colours, the use by private individuals or associations, firms or companies of the arms of the Swiss Confederation, or marks constituting an imitation, whether as trade-marks or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment.

The prohibition indicated in (a) of the use of marks or designations constituting an imitation of the emblem or designation of "Red Cross" or "Geneva Cross," as well as the prohibition in (b) of the use of the arms of the Swiss Confederation or marks constituting an imitation, shall take effect as from the date fixed by each legislature, and not later than five years after the coming into force of the present Convention. From the date of such coming into force, it shall no longer be lawful to adopt a trade-mark in contravention of these rules.

Art. 29. The Governments of the High Contracting Parties shall also propose to their legislatures, should their penal laws be inadequate, the necessary measures for the repression in time of war, of any act contrary to the provisions of the present Convention.

They shall communicate to one another, through the Swiss Federal Council, the provisions relative to such repression not later than five years from the ratification of the present Convention.

Art. 30. On the request of a belligerent, an enquiry shall be instituted, in a manner to be decided between the interested parties, concerning any alleged violation of the Convention ; when such violation has been established the belligerents shall put an end to and repress it as promptly as possible.

Final Provisions.

Ch. XIV

—
App. 28

Art. 31. The present Convention, which shall bear this day's date, may be signed, up to the 1st February, 1930, on behalf of all the countries represented at the Conference which opened at Geneva on the 1st July, 1929, as well as by countries not represented at that Conference but which were parties to the Geneva Conventions of 1864 and 1906.

Art. 32. The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at Berne.

A *procès-verbal* of the deposit of each instrument of ratification shall be drawn up, one copy of which, certified to be correct, shall be transmitted by the Swiss Federal Council to the Governments of all countries on whose behalf the Convention has been signed, or whose accession has been notified.

Art. 33. The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.*

Thereafter, it shall enter into force for each High Contracting Party six months after the deposit of its instrument of ratification.

Art. 34. The present Convention shall replace the Conventions of the 22nd August, 1864, and the 6th July, 1906, in relations between the High Contracting Parties.

Art. 35. From the date of its coming into force, the present Convention shall be open to accession duly notified on behalf of any country on whose behalf this Convention has not been signed.

Art. 36. Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to the Governments of all the countries on whose behalf the Convention has been signed or whose accession has been notified.

Art. 37. A state of war shall give immediate effect to ratifications deposited and accessions notified by the belligerent Powers before or after the outbreak of hostilities. The communication of ratifications or accessions received from Powers in a state of war shall be made by the Swiss Federal Council by the quickest method.

Art. 38. Each of the High Contracting Parties shall be at liberty to denounce the present Convention. The denunciation shall not take effect until one year after the notification thereof in writing has been made to the Swiss Federal Council. The latter shall communicate such notification to the Governments of all the High Contracting Parties.

The denunciation shall only have effect in respect of the High Contracting Party which has made notification thereof.

Moreover, this denunciation shall not take effect during a war in which the denouncing Power is involved. In such a case, the present Convention shall continue binding beyond the period of one year, until the conclusion of peace.

Art. 39. A certified copy of the present Convention shall be deposited in the archives of the League of Nations by the Swiss Federal Council. Similarly, ratifications, accessions and denunciations which shall be notified to the Swiss Federal Council shall be communicated by them to the League of Nations.

In witness whereof, the above-named Plenipotentiaries have signed the present Convention.

Done at Geneva the twenty-seventh July, one thousand nine hundred and twenty-nine, in a single copy, which shall remain deposited in the archives of the Swiss Confederation, and of which copies, certified to be correct, shall be transmitted to the Governments of all the countries invited to the Conference.

(Here follow the signatures of the Plenipotentiaries.)

* The Convention came into force 19th June, 1931.

*List of Ratifications and Accessions.**(a) Ratifications.*Ch. XIV
—
App. 23

*United Kingdom and all parts of British Empire not separate members of League of Nations	.. .. .	23rd June, 1931.
*Australia ..	.. .. .	23rd June, 1931.
*Canada ..	.. .. .	20th February, 1933.
*New Zealand	.. .. .	23rd June, 1931.
South Africa	.. .. .	23rd June, 1931.
*India	.. .. .	23rd June, 1931.
Belgium ..	.. .. .	12th May, 1932.
Brazil ..	.. .. .	23rd March, 1932.
Chile ..	.. .. .	1st June, 1933.
Denmark ..	.. .. .	5th August, 1932.
Egypt ..	.. .. .	25th July, 1933.
France ..	.. .. .	21st August, 1935.
Germany ..	.. .. .	21st February, 1934.
Greece ..	.. .. .	28th May, 1935.
Italy ..	.. .. .	24th March, 1931.
† Japan ..	.. .. .	18th December, 1934.
Latvia ..	.. .. .	14th October, 1931.
Mexico ..	.. .. .	1st August, 1932.
Netherlands	.. .. .	5th October, 1932.
Norway ..	.. .. .	24th June, 1931.
Poland ..	.. .. .	29th June, 1932.
Portugal ..	.. .. .	8th June, 1931.
Roumania ..	.. .. .	24th October, 1931.
Spain ..	.. .. .	6th August, 1930.
Sweden ..	.. .. .	3rd July, 1931.
Switzerland	.. .. .	19th December, 1930.
Turkey ..	.. .. .	10th March, 1934.
United States	.. .. .	4th February, 1932.
Yugoslavia	.. .. .	20th May, 1931.

(b) Accessions.

Ethiopia ..	.. .. .	15th July, 1935.
Iraq ..	.. .. .	25th May, 1931.
Peru ..	.. .. .	10th March, 1933.
U.S.S.R. ..	.. .. .	20th September, 1931.

* With declaration that signature of Convention is subject to the understanding that art. 23 is interpreted in the sense that the legislative measures contemplated by that article may provide that private individuals, associations, firms or companies who have used the arms of the Swiss Confederation, or mark constituting an imitation thereof, for any lawful purpose before the coming into force of the present convention, shall not be prevented from continuing to use such arms or marks for the same purpose.

† While accepting the provisions of art. 23, Japan makes reservations as regards the date of the coming into force of the prohibition contemplated by Clause (b) of the said article.

Japan understands that this prohibition does not apply to arms and marks which have been in use or registered before its coming into force.

The delegates of Japan signed the present Convention subject to the above-mentioned reservations.

Ch. XIV

App. 24

APPENDIX 24.

INTERNATIONAL CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR.

(Signed at Geneva, 27th July, 1929.)

(British Ratification deposited, 23rd June, 1931.)

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India ;

(Here follows the list of other Sovereigns and heads of States who sent Plenipotentiaries to the Conference.)

Recognising that, in the extreme event of a war, it will be the duty of every Power, to mitigate, as far as possible, the inevitable rigours thereof and to alleviate the condition of prisoners of war ;

Being desirous of developing the principles which have inspired the international conventions of The Hague, in particular the Convention concerning the Laws and Customs of War and the Regulations thereunto annexed ;

Have resolved to conclude a Convention for that purpose and have appointed as their plenipotentiaries :

(Here follow the list of Plenipotentiaries.)

Who, having communicated their full powers, found in good and due form, have agreed as follows :

Part I.—General Provisions.

Art. 1. The present Convention shall apply without prejudice to the stipulations of Part VII :—

- (1) to all persons referred to in articles 1, 2 and 3 of the Regulations annexed to The Hague Convention of the 18th October, 1907, concerning the Laws and Customs of War on Land, who are captured by the enemy.*
- (2) to all persons belonging to the armed forces of belligerents who are captured by the enemy in the course of operations of maritime or aerial war, subject to such exceptions (derogations) as the conditions of such capture render inevitable. Nevertheless these exceptions shall not infringe the fundamental principles of the present Convention ; they shall cease from the moment when the captured persons shall have reached a prisoners-of-war camp.

Art. 2. Prisoners of war are in the power of the hostile Government, but not of the individuals or formation which captured them.

They shall at all times be humanely treated and protected, particularly against acts of violence, from insults and from public curiosity.

Measures of reprisal against them are forbidden.

Art. 3. Prisoners of war are entitled to respect for their persons and honour. Women shall be treated with all consideration due to their sex.

Prisoners retain their full civil capacity.

Art. 4. The detaining Power is required to provide for the maintenance of prisoners of war in its charge.

Differences of treatment between prisoners are permissible only if such differences are based on the military rank, the state of physical or mental health, the professional abilities, or the sex of those who benefit from them.

Part II.—Capture.

Art. 5. Every prisoner of war is required to declare, if he is interrogated on the subject, his true names and rank, or his regimental number.

If he infringes this rule, he exposes himself to a restriction of the privileges accorded to prisoners of his category.

No pressure shall be exerted on prisoners to obtain information regarding the situation in their armed forces or their country. Prisoners who refuse to reply may not be threatened, insulted, or exposed to unpleasantness or disadvantages of any kind whatsoever.

If, by reason of his physical or mental condition, a prisoner is incapable of stating his identity, he shall be handed over to the Medical Service.

Art. 6. All personal effects and articles in personal use—except arms, horses, military equipment and military papers—shall remain in the possession of prisoners of war, as well as their metal helmets and gas-masks.

Sums of money carried by prisoners may only be taken from them on the order of an officer and after the amount has been recorded. A receipt shall be given for them. Sums thus impounded shall be placed to the account of each prisoner.

Their identity tokens, badges of rank, decorations and articles of value may not be taken from prisoners.

Ch. XIV

App. 24

Part III.—*Captivity.*

Section I.—*Evacuation of Prisoners of War.*

Art. 7. As soon as possible after their capture, prisoners of war shall be evacuated to depôts sufficiently removed from the fighting zone for them to be out of danger.

Only prisoners who, by reason of their wounds or maladies, would run greater risks by being evacuated than by remaining may be kept temporarily in a dangerous zone.

Prisoners shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

The evacuation of prisoners on foot shall in normal circumstances be effected by stages of not more than 20 kilometres per day, unless the necessity for reaching water and food depôts requires longer stages.

Art. 8. Belligerents are required to notify each other of all captures of prisoners as soon as possible, through the intermediary of the Information Bureaux organised in accordance with article 77. They are likewise required to inform each other of the official addresses to which letters from the prisoners' families may be addressed to the prisoners of war. As soon as possible, every prisoner shall be enabled to correspond personally with his family, in accordance with the conditions prescribed in article 36 and the following articles.

As regards prisoners captured at sea, the provisions of the present article shall be observed as soon as possible after arrival in port.

Section II.—*Prisoners of War Camps.*

Art. 9. Prisoners of war may be interned in a town, fortress, or other place, and may be required not to go beyond certain fixed limits. They may also be interned in fenced camps; they shall not be confined or imprisoned except as a measure indispensable for safety or health, and only so long as circumstances exist which necessitate such a measure.

Prisoners captured in districts which are unhealthy or whose climate is deleterious to persons coming from temperate climates shall be removed as soon as possible to a more favourable climate.

Belligerents shall as far as possible avoid bringing together in the same camp prisoners of different races or nationalities.

No prisoner may at any time be sent to an area where he would be exposed to the fire of the fighting zone, or be employed to render by his presence certain points or areas immune from bombardment.

Chapter I.—*Installation of Camps.*

Art. 10. Prisoners of war shall be lodged in buildings or huts which afford all possible safeguards as regards hygiene and salubrity.

The premises must be entirely free from damp, and adequately heated and lighted. All precautions shall be taken against the danger of fire.

As regards dormitories, their total area, minimum cubic air space, fittings and bedding material, the conditions shall be the same as for the dépôt troops of the detaining Power.

Ch. XIV

App. 24

Chapter 2.—*Food and Clothing of Prisoners of War.*

Art. 11. The food ration of prisoners of war shall be equivalent in quantity and quality to that of the depot troops.

Prisoners shall also be afforded the means of preparing for themselves such additional articles of food as they may possess.

Sufficient drinking water shall be supplied to them. The use of tobacco shall be authorized. Prisoners may be employed in the kitchens.

All collective disciplinary measures affecting food are prohibited.

Art. 12. Clothing, underwear and footwear shall be supplied to prisoners of war by the detaining Power. The regular replacement and repair of such articles shall be assured. Workers shall also receive working kit wherever the nature of the work requires it.

In all camps, canteens shall be installed at which prisoners shall be able to procure, at the local market price, food commodities and ordinary articles.

The profits accruing to the administrations of the camps from the canteens shall be utilised for the benefit of the prisoners.

Chapter 3.—*Hygiene in Camps.*

Art. 13. Belligerents shall be required to take all necessary hygienic measures to ensure the cleanliness and salubrity of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness.

In addition and without prejudice to the provision as far as possible of baths and shower-baths in the camps, the prisoners shall be provided with a sufficient quantity of water for their bodily cleanliness.

They shall have facilities for engaging in physical exercises and obtaining the benefit of being out of doors.

Art. 14. Each camp shall possess an infirmary, where prisoners of war shall receive attention of any kind of which they may be in need. If necessary, isolation establishments shall be reserved for patients suffering from infectious and contagious diseases.

The expenses of treatment, including those of temporary remedial apparatus, shall be borne by the detaining Power.

Belligerents, shall be required to issue, on demand, to any prisoner treated, an official statement indicating the nature and duration of his illness and of the treatment received.

It shall be permissible for belligerents mutually to authorise each other, by means of special agreements, to retain in the camps doctors and medical orderlies for the purpose of caring for their prisoner compatriots.

Prisoners who have contracted a serious malady, or whose condition necessitates important surgical treatment shall be admitted, at the expense of the detaining Power, to any military or civil institution qualified to treat them.

Art. 15. Medical inspections of prisoners of war shall be arranged at least once a month. Their object shall be the supervision of the general state of health and cleanliness, and the detection of infectious and contagious diseases, particularly tuberculosis and venereal complaints.

Chapter 4.—*Intellectual and Moral Needs of Prisoners of War.*

Art. 16. Prisoners of war shall be permitted complete freedom in the performance of their religious duties, including attendance at the services of their faith, on the sole condition that they comply with the routine and police regulations prescribed by the military authorities.

Ministers of religion, who are prisoners of war, whatever may be their denomination, shall be allowed freely to minister to their co-religionists.

Art. 17. Belligerents shall encourage as much as possible the organisation of intellectual and sporting pursuits by the prisoners of war.

Chapter 5.—*Internal Discipline of Camps.*

Art. 18. Each prisoners of war camp shall be placed under the authority of a responsible officer.

In addition to external marks of respect required by the regulations in force in their own armed forces with regard to their nationals, prisoners of war shall be required to salute all officers of the detaining Power.

Officer prisoners of war shall be required to salute only officers of that Power who are their superiors or equals in rank.

Art. 19. The wearing of badges of rank and decorations shall be permitted.

Art. 20. Regulations, orders, announcements and publications of any kind shall be communicated to prisoners of war in a language which they understand. The same principle shall be applied to questions.

Ch. XIV

—
App. 24

Chapter 6.—*Special Provisions concerning Officers and Persons of equivalent status.*

Art. 21. At the commencement of hostilities, belligerents shall be required reciprocally to inform each other of the titles and ranks in use in their respective armed forces, with the view of ensuring equality of treatment between the corresponding ranks of officers and persons of equivalent status.

Officers and persons of equivalent status who are prisoners of war shall be treated with due regard to their rank and age.

Art. 22. In order to ensure the service of officers' camps, soldier prisoners of war of the same armed forces, and as far as possible speaking the same language, shall be detached for service therein in sufficient number, having regard to the rank of the officers and persons of equivalent status.

Officers and persons of equivalent status shall procure their food and clothing from the pay to be paid to them by the detaining Power. The management of a mess by officers themselves shall be facilitated in every way.

Chapter 7.—*Pecuniary Resources of Prisoners of War.*

Art. 23. Subject to any special arrangements made between the belligerent Powers, and particularly those contemplated in article 24, officers and persons of equivalent status who are prisoners of war shall receive from the detaining Power the same pay as officers of corresponding rank in the armed forces of that Power, provided, however, that such pay does not exceed that to which they are entitled in the armed forces of the country in whose service they have been. This pay shall be paid to them in full, once a month if possible, and no deduction therefrom shall be made for expenditure devolving upon the detaining Power, even if such expenditure is incurred on their behalf.

An agreement between the belligerents shall prescribe the rate of exchange applicable to this payment; in default of such agreement, the rate of exchange adopted shall be that in force at the moment of the commencement of hostilities.

All advances made to prisoners of war by way of pay shall be reimbursed, at the end of hostilities, by the Power in whose service they were.

Art. 24. At the commencement of hostilities, belligerents shall determine by common accord the maximum amount of cash which prisoners of war of various ranks and categories shall be permitted to retain in their possession. Any excess withdrawn or withheld from a prisoner, and any deposit of money effected by him, shall be carried to his account, and may not be converted into another currency without his consent.

The credit balances of their accounts shall be paid to the prisoners of war at the end of their captivity.

During the continuance of the latter, facilities shall be accorded to them for the transfer of these amounts, wholly or in part, to banks or private individuals in their country of origin.

Chapter 8.—*Transfer of Prisoners of War.*

Art. 25. Unless the course of military operations demands it, sick and wounded prisoners of war shall not be transferred if their recovery might be prejudiced by the journey.

Art. 26. In the event of transfer, prisoners of war shall be officially informed in advance of their new destination; they shall be authorised to take with them their personal effects, their correspondence and parcels which have arrived for them.

All necessary arrangements shall be made so that correspondence and parcels addressed to their former camp shall be sent on to them without delay.

The sums credited to the account of transferred prisoners shall be transmitted to the competent authority of their new place of residence.

Expenses incurred by the transfers shall be borne by the detaining Power.

Ch. XIV

App. 24

Section III.—*Work of Prisoners of War.*Chapter 1.—*General.*

Art. 27. Belligerents may employ as workmen prisoners of war who are physically fit, other than officers and persons of equivalent status, according to their rank and their ability.

Nevertheless, if officers or persons of equivalent status ask for suitable work, this shall be found for them as far as possible.

Non-commissioned officers who are prisoners of war may be compelled to undertake only supervisory work, unless they expressly request remunerative occupation.

During the whole period of captivity, belligerents are required to admit prisoners of war who are victims of accidents at work to the benefit of provisions applicable to workmen of the same category under the legislation of the detaining Power. As regards prisoners of war to whom these legal provisions could not be applied by reason of the legislation of that Power, the latter undertakes to recommend to its legislative body all proper measures for the equitable compensation of the victims.

Chapter 2.—*Organisation of Work.*

Art. 28. The detaining Power shall assume entire responsibility for the maintenance, care, treatment and the payment of the wages of prisoners of war working for private individuals.

Art. 29. No prisoner of war may be employed on work for which he is physically unsuited.

Art. 30. The duration of the daily work of prisoners of war, including the time of the journey to and from work, shall not be excessive and shall in no case exceed that permitted for civil workers of the locality employed on the same work. Each prisoner shall be allowed a rest of twenty-four consecutive hours each week, preferably on Sunday.

Chapter 3.—*Prohibited Work.*

Art. 31. Work done by prisoners of war shall have no direct connexion with the operations of the war. In particular, it is forbidden to employ prisoners in the manufacture or transport of arms or munitions of any kind, or on the transport of material destined for combatant units.

In the event of violation of the provisions of the preceding paragraph, prisoners are at liberty, after performing or commencing to perform the order, to have their complaints presented through the intermediary of the prisoners' representatives whose functions are described in articles 43 and 44, or, in the absence of a prisoners' representative, through the intermediary of the representatives of the protecting Power.

Art. 32. It is forbidden to employ prisoners of war on unhealthy or dangerous work.

Conditions of work shall not be rendered more arduous by disciplinary measures.

Chapter 4.—*Labour Detachments.*

Art. 33. Conditions governing labour detachments shall be similar to those of prisoners-of-war camps, particularly as concerns hygienic conditions, food, care in case of accidents or sickness, correspondence, and the reception of parcels.

Every labour detachment shall be attached to a prisoners' camp. The commandant of this camp shall be responsible for the observance in the labour detachment of the provisions of the present Convention.

Chapter 5.—*Pay.*

Art. 34. Prisoners of war shall not receive pay for work in connexion with the administration, internal arrangement and maintenance of camps.

Prisoners employed on other work shall be entitled to a rate of pay, to be fixed by agreements between the belligerents.

These agreements shall also specify the portion which may be retained by the camp administration, the amount which shall belong to the prisoner of war and the manner in which this amount shall be placed at his disposal during the period of his captivity.

Pending the conclusion of the said agreements, remuneration of the work of prisoners shall be fixed according to the following standards:— **Ch. XIV**

(a) Work done for the State shall be paid for according to the rates in force for soldiers of the national forces doing the same work, or, if no such rates exist, according to a tariff corresponding to the work executed. **App. 24**

(b) When the work is done for other public administrations or for private individuals, the conditions shall be settled in agreement with the military authorities.

The pay which remains to the credit of a prisoner shall be remitted to him on the termination of his captivity. In case of death, it shall be remitted through the diplomatic channel to the heirs of the deceased.

Section IV.—*Relations of Prisoners of War with the Exterior.*

Art. 35. On the commencement of hostilities, belligerents shall publish the measures prescribed for the execution of the provisions of the present section.

Art. 36. Each of the belligerents shall fix periodically the number of letters and postcards which prisoners of war of different categories shall be permitted to send per month, and shall notify that number to the other belligerent. These letters and cards shall be sent by post by the shortest route. They may not be delayed or withheld for disciplinary motives.

Not later than one week after his arrival in camp, and similarly in case of sickness, each prisoner shall be enabled to send a post-card to his family informing them of his capture and the state of his health. The said post-cards shall be forwarded as quickly as possible and shall not be delayed in any manner.

As a general rule, the correspondence of prisoners shall be written in their native language. Belligerents may authorise correspondence in other languages.

Art. 37. Prisoners of war shall be authorised to receive individually postal parcels containing foodstuffs and other articles intended for consumption or clothing. The parcels shall be delivered to the addressees and a receipt given.

Art. 38. Letters and remittances of money or valuables, as well as postal parcels addressed to prisoners of war, or despatched by them, either directly or through the intermediary of the information bureaux mentioned in article 77, shall be exempt from all postal charges in the countries of origin and destination and in the countries through which they pass.

Presents and relief in kind intended for prisoners of war shall also be exempt from all import or other duties, as well as any charges for carriage on railways operated by the State.

Prisoners may, in cases of recognised urgency, be authorised to send telegrams on payment of the usual charges.

Art. 39. Prisoners of war shall be permitted to receive individually consignments of books which may be subject to censorship.

Representatives of the protecting Powers and of duly recognised and authorised relief societies may send works and collections of books to the libraries of prisoners' camps. The transmission of such consignments to libraries may not be delayed under pretext of difficulties of censorship.

Art. 40. The censoring of correspondence shall be accomplished as quickly as possible. The examination of postal parcels shall, moreover, be effected under such conditions as will ensure the preservation of any foodstuffs which they may contain, and, if possible, be done in the presence of the addressee or of a representative duly recognised by him.

Any prohibition of correspondence ordered by the belligerents, for military or political reasons, shall only be of a temporary character and shall also be for as brief a time as possible.

Art. 41. Belligerents shall accord all facilities for the transmission of documents destined for prisoners of war or signed by them, in particular powers of attorney and wills.

They shall take the necessary measures to secure, in case of need, the legalisation of signatures of prisoners.

Section V.—*Relations between Prisoners of War and the Authorities.*

Chapter 1.—*Complaints of Prisoners of War respecting the Conditions of Captivity.*

Art. 42. Prisoners of war shall have the right to bring to the notice of the military authorities, in whose hands they are, their petitions concerning the conditions of captivity to which they are subjected.

Ch. XIV**App. 24**

They shall also have the right to communicate with the representatives of the protecting Powers in order to draw their attention to the points on which they have complaints to make with regard to the conditions of captivity.

Such petitions and complaints shall be transmitted immediately.

Even though they are found to be groundless, they shall not give rise to any punishment.

Chapter 2.—Representatives of Prisoners of War.

Art. 43. In any locality where there may be prisoners of war, they shall be authorised to appoint representatives to represent them before the military authorities and the protecting Powers.

Such appointments shall be subject to the approval of the military authorities.

The prisoners' representatives shall be charged with the reception and distribution of collective consignments. Similarly, in the event of the prisoners deciding to organise amongst themselves a system of mutual aid, such organisation shall be one of the functions of the prisoners' representatives. On the other hand, the latter may offer their services to prisoners to facilitate their relations with the relief societies mentioned in article 78.

In camps of officers and persons of equivalent status the senior officer prisoner of the highest rank shall be recognised as intermediary between the camp authorities and the officers and similar persons who are prisoners. For this purpose he shall have the power to appoint an officer prisoner to assist him as interpreter in the course of conferences with the authorities of the camp.

Art. 44. When the prisoners' representatives are employed as workmen, their work as representatives of the prisoners of war shall be reckoned in the compulsory period of labour.

All facilities shall be accorded to the prisoners' representatives for their correspondence with the military authorities and the protecting Power. Such correspondence shall not be subject to any limitation.

No prisoners' representative may be transferred without his having been allowed the time necessary to acquaint his successors with the current business.

Chapter 3.—Penal Sanctions with regard to Prisoners of War.**1.—General Provisions.**

Art. 45. Prisoners of war shall be subject to the laws, regulations, and orders in force in the armed forces of the detaining Power.

Any act of insubordination shall render them liable to the measures prescribed by such laws, regulations, and orders, except as otherwise provided in this Chapter.

Art. 46. Prisoners of war shall not be subjected by the military authorities or the tribunals of the detaining Power to penalties other than those which are prescribed for similar acts by members of the national forces.

Officers, non-commissioned officers or private soldiers, prisoners of war, undergoing disciplinary punishment shall not be subjected to treatment less favourable than that prescribed, as regards the same punishment, for similar ranks in the armed forces of the detaining Power.

All forms of corporal punishment, confinement in premises not lighted by daylight and, in general, all forms of cruelty whatsoever, are prohibited.

Collective penalties for individual acts are also prohibited.

Art. 47. A statement of the facts in cases of acts constituting a breach of discipline, and particularly an attempt to escape, shall be drawn up in writing without delay. The period during which prisoners of war of whatever rank are detained in custody (pending the investigation of such offences) shall be reduced to a strict minimum.

The judicial proceedings against a prisoner of war shall be conducted as quickly as circumstances will allow. The period during which prisoners shall be detained in custody shall be as short as possible.

In all cases the period during which a prisoner is under arrest (awaiting punishment or trial) shall be deducted from the sentence, whether disciplinary or judicial, provided such deduction is permitted in the case of members of the national forces.

Art. 48. After undergoing the judicial or disciplinary punishment which have been inflicted on them, prisoners of war shall not be treated differently from other prisoners.

Nevertheless, prisoners who have been punished as the result of an attempt to escape may be subjected to a special régime of surveillance, but this shall not involve the suppression of any of the safeguards accorded to prisoners by the present Convention.

Art. 49. No prisoner of war may be deprived of his rank by the detaining Power.

Prisoners on whom disciplinary punishment is inflicted shall not be deprived of the privileges attaching to their rank. In particular, officers and persons of equivalent status who suffer penalties entailing deprivation of liberty shall not be placed in the same premises as non-commissioned officers or private soldiers undergoing punishment.

Art. 50. Escaped prisoners of war who are re-captured before they have been able to rejoin their own armed forces or to leave the territory occupied by the armed forces which captured them shall be liable only to disciplinary punishment.

Prisoners who, after succeeding in rejoining their armed forces or in leaving the territory occupied by the armed forces which captured them, are again taken prisoner shall not be liable to any punishment for their previous escape.

Art. 51. Attempted escape, even if it is not a first offence, shall not be considered as an aggravation of the offence in the event of the prisoner of war being brought before the courts for crimes or offences against persons or property committed in the course of such attempt.

After an attempted or successful escape, the comrades of the escaped person who aided the escape shall incur only disciplinary punishment therefor.

Art. 52. Belligerents shall ensure that the competent authorities exercise the greatest leniency in considering the question whether an offence committed by a prisoner of war should be punished by disciplinary or by judicial measures.

This provision shall be observed in particular in appraising facts in connexion with escape or attempted escape.

A prisoner shall not be punished more than once for the same act or on the same charge.

Art. 53. No prisoner who has been awarded any disciplinary punishment for an offence and who fulfils the conditions laid down for repatriation shall be retained on the ground that he has not undergone his punishment.

Prisoners qualified for repatriation against whom any prosecution for a criminal offence has been brought may be excluded from repatriation until the termination of the proceedings and until fulfilment of their sentence, if any; prisoners already serving a sentence of imprisonment may be retained until the expiry of the sentence.

Belligerents shall communicate to each other lists of those who cannot be repatriated for the reasons indicated in the preceding paragraph.

2.—Disciplinary Punishments.

Art. 54. Imprisonment is the most severe disciplinary punishment which may be inflicted on a prisoner of war.

The duration of any single punishment shall not exceed thirty days.

This maximum of thirty days shall, moreover, not be exceeded in the event of there being several acts for which the prisoner is answerable to discipline at the time when his case is disposed of, whether such acts are connected or not.

Where, during the course or after the termination of a period of imprisonment, a prisoner is sentenced to a fresh disciplinary penalty, a period of at least three days shall intervene between each of the periods of imprisonment, if one of such periods is of ten days or over.

Art. 55. Subject to the provisions of the last paragraph of article 11, the restrictions in regard to food permitted in the armed forces of the detaining Power may be applied, as an additional penalty, to prisoners of war undergoing disciplinary punishment.

Such restrictions shall, however, only be ordered if the state of the prisoner's health permits.

Art. 56. In no case shall prisoners of war be transferred to penitentiary establishments (prisons, penitentiaries, convict establishments, &c.) in order to undergo disciplinary sentence there.

Establishments in which disciplinary sentences are undergone shall conform to the requirements of hygiene.

Facilities shall be afforded to prisoners undergoing sentence to keep themselves in a state of cleanliness.

Every day, such prisoners shall have facilities for taking exercise or for remaining out of doors for at least two hours.

Ch. XIV

—
App. 24

Art. 57. Prisoners of war undergoing disciplinary punishment shall be permitted to read and write, and to send and receive letters.

On the other hand, it shall be permissible not to deliver parcels and remittances of money to the addressees until the expiration of the sentence. If the undelivered parcels contain perishable foodstuffs, these shall be handed over to the infirmary or to the camp kitchen.

Art. 58. Prisoners of war undergoing disciplinary punishment shall be permitted, on their request, to present themselves for daily medical inspection. They shall receive such attention as the medical officers may consider necessary, and, if need be, shall be evacuated to the camp infirmary or to hospital.

Art. 59.—Without prejudice to the competency of the courts and the superior military authorities, disciplinary sentences may only be awarded by an officer vested with disciplinary powers in his capacity as Commandant of the camp or detachment, or by the responsible officer acting as his substitute.

3.—Judicial Proceedings.

Art. 60. At the commencement of a judicial hearing against a prisoner of war, the detaining Power shall notify the representative of the protecting Power as soon as possible, and in any case before the date fixed for the opening of the hearing.

The said notification shall contain the following particulars:—

- (a) Civil status and rank of the prisoner.
- (b) Place of residence or detention.
- (c) Statement of the charge or charges, and of the legal provisions applicable.

If it is not possible in this notification to indicate particulars of the court which will try the case, the date of the opening of the hearing and the place where it will take place, these particulars shall be furnished to the representative of the protecting Power at a later date, but as soon as possible and in any case at least three weeks before the opening of the hearing.

Art. 61. No prisoner of war shall be sentenced without being given the opportunity to defend himself.

No prisoner shall be compelled to admit that he is guilty of the offence of which he is accused.

Art. 62. The prisoner of war shall have the right to be assisted by a qualified advocate of his own choice, and, if necessary, to have recourse to the offices of a competent interpreter. He shall be informed of his right by the detaining Power in good time before the hearing.

Falling a choice on the part of the prisoner, the protecting Power may procure an advocate for him. The detaining Power shall, on the request of the protecting Power, furnish to the latter a list of persons qualified to conduct the defence.

The representatives of the protecting Power shall have the right to attend the hearing of the case.

The only exception to this rule is where the hearing has to be kept secret in the interests of the safety of the State. The detaining Power would then notify the protecting Power accordingly.

Art. 63. A sentence shall only be pronounced on a prisoner of war by the same tribunals and in accordance with the same procedure as in the case of persons belonging to the armed forces of the detaining Power.

Art. 64.—Every prisoner of war shall have the right of appeal against any sentence against him in the same manner as persons belonging to the armed forces of the detaining Power.

Art. 65. Sentences pronounced against prisoners of war shall be communicated immediately to the protecting Power.

Art. 66. If sentence of death is passed on a prisoner of war, a communication setting forth in detail the nature and the circumstances of the offence shall be addressed as soon as possible to the representative of the protecting Power for transmission to the Power in whose armed forces the prisoner served.

The sentence shall not be carried out before the expiration of a period of at least three months from the date of the receipt of this communication by the protecting Power.

Art. 67. No prisoner of war may be deprived of the benefit of the provisions of article 42 of the present Convention as the result of a judgment or otherwise.

Part IV.—*End of Captivity.*

Ch. XIV

App. 24

Section I.—*Direct Repatriation and Accommodation in a Neutral Country.*

Art. 68. Belligerents shall be required to send back to their own country, without regard to rank or numbers, after rendering them in a fit condition for transport, prisoners of war who are seriously ill or seriously wounded.

Agreements between the belligerents shall therefore determine, as soon as possible, the forms of disablement or sickness requiring direct repatriation and cases which may necessitate accommodation in a neutral country. Pending the conclusion of such agreements, the belligerents may refer to the model draft agreement* annexed to the present Convention.

Art. 69. On the opening of hostilities, belligerents shall come to an understanding as to the appointment of mixed medical commissions. These commissions shall consist of three members, two of whom shall belong to a neutral country and one appointed by the detaining Power; one of the medical officers of the neutral country shall preside. These mixed medical commissions shall proceed to the examination of sick or wounded prisoners and shall make all appropriate decisions with regard to them.

The decisions of these commissions shall be decided by majority and shall be carried into effect as soon as possible.

Art. 70. In addition to those prisoners of war selected by the medical officer of the camp, the following shall be inspected by the mixed medical commission mentioned in article 69, with a view to their direct repatriation or accommodation in a neutral country:

- (a) prisoners who make a direct request to that effect to the medical officer of the camp;
- (b) prisoners presented by the prisoners' representatives mentioned in article 43, the latter acting on their own initiative or on the request of the prisoners themselves;
- (c) prisoners nominated by the Power in whose armed forces they served or by a relief society duly recognised and authorised by that Power.

Art. 71. Prisoners of war who meet with accidents at work, unless the injury is self-inflicted, shall have the benefit of the same provisions as regards repatriation or accommodation in a neutral country.

Art. 72. During the continuance of hostilities, and for humanitarian reasons, belligerents may conclude agreements with a view to the direct repatriation or accommodation in a neutral country of prisoners of war in good health who have been in captivity for a long time.

Art. 73. The expenses of repatriation or transport to a neutral country of prisoners of war shall be borne, as from the frontier of the detaining Power, by the Power in whose armed forces such prisoners served.

Art. 74. No repatriated person shall be employed on active military service.

Section II.—*Liberation and Repatriation at the End of Hostilities.*

Art. 75. When belligerents conclude an armistice convention, they shall normally cause to be included therein provisions concerning the repatriation of prisoners of war. If it has not been possible to insert in that Convention such stipulations, the belligerents shall, nevertheless, enter into communication with each other on the question as soon as possible. In any case, the repatriation of prisoners shall be effected as soon as possible after the conclusion of peace.

Prisoners of war who are subject to criminal proceedings for a crime or offence at common law may, however, be detained until the end of the proceedings, and, if need be, until the expiration of the sentence. The same applies to prisoners convicted for a crime or offence at common law.

By agreement between the belligerents, commissions may be instituted for the purpose of searching for scattered prisoners and ensuring their repatriation.

Part V.—*Deaths of Prisoners of War.*

Art. 76. The wills of prisoners of war shall be received and drawn up under the same conditions as for soldiers of the national armed forces.

The same rules shall be followed as regards the documents relative to the certification of the death.

The belligerents shall ensure that prisoners of war who have died in captivity are honourably buried, and that the graves bear the necessary indications and are treated with respect and suitably maintained.

* See page 21.

Ch. XIV **Part VI.—Bureaux of Relief and Information concerning Prisoners of War.**

App. 84

Art. 77. At the commencement of hostilities, each of the belligerent Powers and the neutral Powers who have belligerents in their care, shall institute an official bureau to give information about the prisoners of war in their territory.

Each of the belligerent Powers shall inform its Information Bureau as soon as possible of all captures of prisoners effected by its armed forces, furnishing them with all particulars of identity at its disposal to enable the families concerned to be quickly notified, and stating the official addresses to which families may write to the prisoners.

The Information Bureau shall transmit all such information immediately to the Powers concerned, on the one hand through the intermediary of the protecting Powers, and on the other through the Central Agency contemplated in article 79.

The Information Bureau, being charged with replying to all enquiries relative to prisoners of war, shall receive from the various services concerned all particulars respecting internments and transfers, releases on parole, repatriations, escapes, stays in hospitals, and deaths, together with all other particulars necessary for establishing and keeping up to date an individual record for each prisoner of war.

The Bureau shall note in this record, as far as possible, and subject to the provisions of Article 5, the regimental number, names and surnames, date and place of birth, rank and unit of the prisoner, the surname of the father and name of the mother, the address of the person to be notified in case of accident, wounds, dates and places of capture, of internment, of wounds, of death, together with all other important particulars.

Weekly lists containing all additional particulars capable of facilitating the identification of each prisoner shall be transmitted to the interested Powers.

The individual record of a prisoner of war shall be sent after the conclusion of peace to the Power in whose service he was.

The Information Bureau shall also be required to collect all personal effects, valuables, correspondence, pay-books, identity tokens, &c., which have been left by prisoners of war who have been repatriated or released on parole, or who have escaped or died, and to transmit them to the countries concerned.

Art. 78. Societies for the relief of prisoners of war, regularly constituted in accordance with the laws of their country, and having for their object to serve as intermediaries for charitable purposes, shall receive from the belligerents, for themselves and their duly accredited agents, all facilities for the efficacious performance of their humane task within the limits imposed by military exigencies. Representatives of these societies shall be permitted to distribute relief in the camps and at the halting places of repatriated prisoners under a personal permit issued by the military authority, and on giving an undertaking in writing to comply with all routine and police orders which the said authority shall prescribe.

Art. 79. A Central Agency of information regarding prisoners of war shall be established in a neutral country. The International Red Cross Committee shall, if they consider it necessary, propose to the Powers concerned the organisation of such an agency.

This agency shall be charged with the duty of collecting all information regarding prisoners which they may be able to obtain through official or private channels, and the agency shall transmit the information as rapidly as possible to the prisoners' own country or the Power in whose service they have been.

These provisions shall not be interpreted as restricting the humanitarian work of the International Red Cross Committee.

Art. 80. Information Bureaux shall enjoy exemption from fees on postal matter as well as all the exemptions prescribed in Article 38.

Part VII.—Application of the Convention to certain Categories of Civilians.

Art. 81. Persons who follow the armed forces without directly belonging thereto, such as correspondents, newspaper reporters, sutlers, or contractors, who fall into the hands of the enemy, and whom the latter think fit to detain, shall be entitled to be treated as prisoners of war, provided they are in possession of an authorisation from the military authorities of the armed forces which they were following.

Part VIII.—*Execution of the Convention.*

Ch. XIV

Section I.—*General Provisions.*

App. 24

Art. 82. The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances.

In time of war, if one of the belligerents is not a party to the Convention, its provisions shall, nevertheless, remain binding as between the belligerents who are parties thereto.

Art. 83. The High Contracting Parties reserve to themselves the right to conclude special conventions on all questions relating to prisoners of war concerning which they may consider it desirable to make special provision.

Prisoners of war shall continue to enjoy the benefits of these agreements until their repatriation has been effected, subject to any provisions expressly to the contrary contained in the above-mentioned agreements or in subsequent agreements, and subject to any more favourable measures by one or the other of the belligerent Powers concerning the prisoners detained by that Power.

In order to ensure the application, on both sides, of the provisions of the present Convention, and to facilitate the conclusion of the special conventions mentioned above, the belligerents may, at the commencement of hostilities, authorise meetings of representatives of the respective authorities charged with the administration of prisoners of war.

Art. 84. The text of the present Convention and of the special conventions mentioned in the preceding article shall be posted, whenever possible, in the native language of the prisoners of war, in places where it may be consulted by all the prisoners.

The text of these conventions shall be communicated, on their request, to prisoners who are unable to inform themselves of the text posted.

Art. 85. The High Contracting Parties shall communicate to each other, through the intermediary of the Swiss Federal Council, the official translations of the present Convention, together with such laws and regulations as they may adopt to ensure the application of the present Convention.

Section II.—*Organisation of Control.*

Art. 86. The High Contracting Parties recognise that a guarantee of the regular application of the present Convention will be found in the possibility of collaboration between the protecting Powers charged with the protection of the interests of the belligerents; in this connexion, the protecting Powers may, apart from their diplomatic personnel, appoint delegates from among their own nationals or the nationals of other neutral Powers. The appointment of these delegates shall be subject to the approval of the belligerent with whom they are to carry out their mission.

The representatives of the protecting Power or their recognised delegates shall be authorised to proceed to any place, without exception, where prisoners of war are interned. They shall have access to all premises occupied by prisoners and may hold conversation with prisoners, as a general rule without witnesses, either personally or through the intermediary of interpreters.

Belligerents shall facilitate as much as possible the task of the representatives or recognised delegates of the protecting Power. The military authorities shall be informed of their visits.

Belligerents may mutually agree to allow persons of the prisoners' own nationality to participate in the tours of inspection.

Art. 87. In the event of dispute between the belligerents regarding the application of the provisions of the present Convention, the protecting Powers shall, as far as possible, lend their good offices with the object of settling the dispute.

To this end, each of the protecting Powers may, for instance, propose to the belligerents concerned that a conference of representatives of the latter should be held, on suitably chosen neutral territory. The belligerents shall be required to give effect to proposals made to them with this object. The protecting Power may, if necessary, submit for the approval of the Powers in dispute the name of a person belonging to a neutral Power or nominated by the International Red Cross Committee, who shall be invited to take part in this conference.

Art. 88. The foregoing provisions do not constitute any obstacle to the humanitarian work which the International Red Cross Committee may perform for the protection of prisoners of war with the consent of the belligerents concerned.

Ch. XIV

Section III.—*Final Provisions.*

App. 24

Art. 89. In the relations between the Powers who are bound either by The Hague Convention concerning the Laws and Customs of War on Land of the 29th July, 1899, or that of the 18th October, 1907, and are parties to the present Convention, the latter shall be complementary to Chapter 2 of the Regulations annexed to the above-mentioned Conventions of The Hague.

Art. 90. The present Convention, which shall bear this day's date, may be signed up to the 1st February, 1930, on behalf of any of the countries represented at the Conference which opened at Geneva on the 1st July, 1929.

Art. 91. The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at Berne.

In respect of the deposit of each instrument of ratification, a *procès-verbal* shall be drawn up, and a copy thereof, certified correct, shall be sent by the Swiss Federal Council to the Governments of all the countries on whose behalf the Convention has been signed or whose accession has been notified.

Art. 92. The present Convention shall enter into force six months after at least two instruments of ratification have been deposited.* Thereafter it shall enter into force for each High Contracting Party six months after the deposit of its instrument of ratification.

Art. 93. As from the date of its entry into force, the present Convention shall be open to accession notified in respect of any country on whose behalf this Convention has not been signed.

Art. 94. Accessions shall be notified in writing to the Swiss Federal Council and shall take effect six months after the date on which they have been received.

The Swiss Federal Council shall notify the accessions to the Governments of all the countries on whose behalf the Convention has been signed or whose accession has been notified.

Art. 95. A state of war shall give immediate effect to ratifications deposited and to accessions notified by the belligerent Powers before or after the commencement of hostilities. The communication of ratifications or accessions received from Powers in a state of war shall be effected by the Swiss Federal Council by the quickest method.

Art. 96. Each of the High Contracting Parties shall have the right to denounce the present Convention. The denunciation shall only take effect one year after notification thereof has been made in writing to the Swiss Federal Council. The latter shall communicate this notification to the Governments of all the High Contracting Parties.

The denunciation shall only be valid in respect of the High Contracting Party which has made notification thereof.

Such denunciation shall, moreover, not take effect during a war in which the denouncing Power is involved. In this case, the present Convention shall continue binding, beyond the period of one year, until the conclusion of peace and, in any case, until operations of repatriation shall have terminated.

Art. 97. A copy of the present Convention, certified to be correct, shall be deposited by the Swiss Federal Council in the archives of the League of Nations. Similarly, ratifications, accessions and denunciations notified to the Swiss Federal Council shall be communicated by them to the League of Nations.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention.

Done at Geneva the 27th July, 1929, in a single copy, which shall remain deposited in the archives of the Swiss Confederation, and of which copies, certified correct, shall be transmitted to the Governments of all the countries invited to the Conference.

(Here follow the signatures of the Plenipotentiaries.)

* The Convention came into force 19th June, 1931. For list of ratifications see page 23.

Annex to the Convention of the 27th July, 1929, relative to the Treatment of Prisoners of War.

Ch. XIV
—
App. 26

(Translation.)

Model Draft Agreement concerning the Direct Repatriation or Accommodation in a Neutral Country of Prisoners of War for Reasons of Health.

I.—GUIDING PRINCIPLES FOR DIRECT REPATRIATION OR ACCOMMODATION IN A NEUTRAL COUNTRY.

A.—Direct Repatriation.

The following shall be repatriated direct :—

1. Sick and wounded whose recovery within one year is not probable according to medical prognosis whose condition requires treatment, and whose intellectual or bodily powers appears to have undergone a considerable diminution.

2. *Incurable* sick and wounded whose intellectual or bodily powers appear to have undergone a considerable diminution.

3. *Convalescent* sick and wounded, whose intellectual or bodily powers appear to have undergone a considerable diminution.

B.—Accommodation in a Neutral Country.

The following shall be accommodated in a neutral country :—

1. Sick and wounded whose recovery is presumable within the period of one year, when it appears that such recovery would be more certain and more rapid if the sick and wounded were given the benefit of the resources offered by the neutral country than if their captivity, properly so called, were prolonged.

2. Prisoners of war whose intellectual or physical health appears, according to medical opinion, to be seriously threatened by continuance in captivity, while accommodation in a neutral country would probably diminish that risk.

C.—Repatriation of Prisoners in a Neutral Country.

Prisoners of war who have been accommodated in a neutral country, and belong to the following categories, shall be repatriated :—

1. Those whose state of health appears to be, or likely to become such that they would fall into the categories of those to be repatriated for reasons of health.

2. Those who are convalescent, whose intellectual or physical powers appear to have undergone a considerable diminution.

II.—SPECIAL PRINCIPLES FOR DIRECT REPATRIATION OR ACCOMMODATION IN A NEUTRAL COUNTRY.

A.—Repatriation.

The following shall be repatriated :—

1. All prisoners of war suffering the following effective or functional disabilities as the result of organic injuries : Loss of a limb, paralysis, articular or other disabilities, when the defect is at least the loss of a foot or a hand, or the equivalent of the loss of a foot or a hand.

2. All *wounded or injured* prisoners of war whose condition is such as to render them invalids whose cure within a year cannot be medically foreseen.

3. All *sick* prisoners whose condition is such as to render them invalids whose cure within a year cannot be medically foreseen.

The following in particular belong to this category :—

(a) Progressive tuberculosis of any organ which, according to medical prognosis, cannot be cured or at least considerably improved by treatment in a neutral country ;

(b) Non-tubercular affections of the respiratory organs which are presumed to be incurable (in particular, strongly developed pulmonary emphysema, with or without bronchitis, bronchiectasis, serious asthma, gas poisoning, &c.)

Ch. XIV

App. 24

- (c) Grave chronic affections of the circulatory organs (for example: valvular affections with a tendency to compensatory troubles, relatively grave affections of the myocardium, pericardium or the vessels, in particular, aneurism of the larger vessels which cannot be operated on, &c.);
- (d) Grave chronic affections of the digestive organs;
- (e) Grave chronic affections of the urinary and sexual organs, in particular, for example: any case of chronic nephritis, confirmed by symptoms, and especially when cardiac and vascular deterioration already exists; the same applies to chronic pyelitis and cystitis, &c.;
- (f) Grave chronic maladies of the central and peripheral nervous system; in particular grave neurasthenia and hysteria, any indisputable case of epilepsy, grave Basedon's disease, &c.;
- (g) Blindness of both eyes, or of one eye when the vision of the other is less than 1 in spite of the use of corrective glasses. Diminution of visual acuteness in cases where it is impossible to restore it by correction to an acuteness of $\frac{1}{2}$ in at least one eye. The other ocular affections falling within the present category (glaucoma, iritis, choroiditis, &c.);
- (h) Total bilateral deafness, and total unilateral deafness in cases where the ear which is not completely deaf cannot hear ordinary speaking voice at a distance of one metre;
- (i) Any indisputable case of mental affection;
- (k) Grave cases of chronic poisoning by metals or other causes (lead poisoning, mercury poisoning, morphinism, cocainism, alcoholism, gas poisoning, &c.);
- (l) Chronic affections of the locomotive organs (arthritis deformans, gout, or rheumatism with impairment, which can be ascertained clinically), provided that they are serious;
- (m) Malignant growths, if they are not amenable to relatively mild operations without danger to the life of the person operated upon;
- (n) All cases of malaria with appreciable organic deterioration (serious chronic enlargement of the liver or spleen, cachexy, &c.);
- (o) Grave chronic cutaneous affections, when their nature does not constitute a medical reason for treatment in a neutral country.
- (p) Serious avitaminosis (beri-beri, pellagra, chronic scurvy).

B.—Accommodation in a Neutral Country.

Prisoners of war shall be accommodated in a neutral country if they suffer from the following affections:—

1. All forms of tuberculosis of any organ, if, according to present medical knowledge, they can be cured or their condition considerably improved by methods applicable in a neutral country (altitude, treatment in sanatoria, &c.).

2. All forms—necessitating treatment—of affections of the respiratory, circulatory, digestive, genito-urinary, or nervous organs, of the organs of the senses, or of the locomotive or cutaneous functions, provided that such forms of affection do not belong to the categories necessitating direct repatriation, or that they are not acute maladies (properly so called) susceptible of complete cure. The affections referred to in this paragraph are such as admit, by the application of methods of treatment available in the neutral country, of really better chances of the patient's recovery than if he were treated in captivity.

Special consideration should be given to nervous troubles, the effective or determining causes of which are the effects of the war or of captivity, such as psychasthenia of prisoners of war or other analogous cases.

All duly established cases of this nature must be treated in neutral countries when their gravity or their constitutional character does not render them cases for direct repatriation.

Cases of psychasthenia of prisoners of war who are not cured after three months' sojourn in a neutral country, or which after that period are not manifestly on the way to complete recovery, shall be repatriated.

3. All cases of wounds or injuries or their consequences which offer better prospects of cure in a neutral country than in captivity, provided that such cases are neither such as justify direct repatriation, nor insignificant cases.

4. All duly established cases of malaria which do not show organic deterioration clinically ascertainable (chronic enlargement of the liver or spleen, cachexy, &c.), if sojourn in a neutral country offers particularly favourable prospects of final cure.

5. All cases of poisoning (in particular by gas, metals, or alkaloids) which the prospects of cure in a neutral country are especially favourable.

The following are excluded from accommodation in a neutral country:—

Ch. XIV

1. All cases of duly established mental affections.
2. All organic or functional nervous affections which are reputed to be incurable. (These two categories belong to those which entitle direct repatriation.)

App. 24

3. Grave chronic alcoholism.
4. All contagious affections during the period when they are transmissible, (acute infectious diseases, primary and secondary syphilis, trachoma, leprosy, etc.).

III.—GENERAL OBSERVATIONS.

The conditions stated above must, in a general way, be interpreted and applied in as broad a spirit as possible.

This breadth of interpretation must especially be applied in neuropathic or psychopathic cases caused or aggravated by the effects of war or captivity (psychasthenia of prisoners of war), and in cases of tuberculosis in all degrees.

It is obvious that camp doctors and mixed medical commissions may find themselves faced with many cases not mentioned amongst the examples given under section II above, or with cases that cannot be assimilated to these examples. The above-mentioned examples are only given as typical examples; a similar list of surgical disabilities has not been drawn up because, apart from cases which are indisputable on account of their very nature (amputations), it is difficult to draw up a list of specified types; experience has shown that a list of such specified cases was not without inconvenience in practice.

Cases not conforming exactly with the examples quoted shall be determined in the spirit of the guiding principles given above.

List of Ratifications and Accessions.

(a) Ratifications.

United Kingdom and all parts of British Empire not separate members of League of Nations					23rd June, 1931.
Australia ..	..	..	..	..	23rd June, 1931.
Canada ..	..	..	..	..	20th February, 1933.
New Zealand ..	..	..	..	..	23rd June, 1931.
*South Africa ..	..	..	..	..	23rd June, 1931.
India ..	..	..	..	..	23rd June, 1931.
Belgium ..	..	..	..	..	12th May, 1932.
Brazil ..	..	..	..	..	23rd March, 1932.
Chile ..	..	..	..	..	1st June, 1933.
Denmark ..	..	..	..	..	5th August, 1932.
Egypt ..	..	..	..	..	25th July, 1933.
France ..	..	..	..	..	21st August, 1935.
Germany ..	..	..	..	..	21st February, 1934.
Greece ..	..	..	..	..	28th May, 1935.
Italy ..	..	..	..	..	24th March, 1931.
Latvia ..	..	..	..	..	14th October, 1931.
Mexico ..	..	..	..	..	1st August, 1932.
Netherlands ..	..	..	..	..	5th October, 1932.
Norway ..	..	..	..	..	24th June, 1931.
Poland ..	..	..	..	..	29th June, 1932.
Portugal ..	..	..	..	..	8th June, 1931.
Roumania ..	..	..	..	..	24th October, 1931.
Spain ..	..	..	..	..	6th August, 1930.
Sweden ..	..	..	..	..	3rd July, 1931.
Switzerland ..	..	..	..	..	19th December, 1930.
Turkey ..	..	..	..	..	10th March, 1934.
United States	4th February, 1932.
Yugoslavia	20th May, 1931.

(b) Accession.

Iraq	29th May, 1934.
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* With declaration, on ratification, that in the opinion of the Union of South Africa, the period of delay mentioned in art. 68 should be regarded as commencing from the date on which communication contemplated by that article is received by the Protecting Power.

Ch. XIV

APPENDIX 25.

App. 25

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE.

Geneva, June 17, 1925.

PROTOCOL.

The undersigned Plenipotentiaries, in the name of their respective Governments :

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world ; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties ; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations ;

Declare :

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear to-day's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratifications to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, this seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.

(Here follow the list of Plenipotentiaries.)

List of Ratifications and Accessions.

Ch. XIV

App. 25

(a) Ratifications.

*United Kingdom and all parts of the British Empire not separate members of the League of Nations

†Canada	9th April, 1930.
†India	6th May, 1930.
†Austria	9th April, 1930.
†Belgium	9th May, 1928.
†Bulgaria	4th December, 1928.
†Chile	7th March, 1934.
Denmark	2nd July, 1935.
†Egypt	5th May, 1930.
†Estonia	6th December, 1928.
Finland	28th August, 1931.
†France	26th June, 1929.
Germany	9th May, 1928.
Greece	25th April, 1929.
Italy	30th May, 1931.
Latvia	3rd April, 1928.
Lithuania	3rd June, 1931.
†Netherlands (including Netherlands East Indies, Surinam and Curacao)	15th June, 1933.
Norway	31st October, 1930.
Poland	27th July, 1932.
†Portugal	4th February, 1929.
†Roumania	1st July, 1930.
Siam	23rd August, 1929.
Spain	6th June, 1931.
Sweden	22nd August, 1929.
Switzerland	25th April, 1930.
Turkey	12th July, 1932.
Venezuela	5th October, 1929.
Yugoslavia	8th February, 1928.
	12th April, 1929.

(b) Accessions.

†Australia	22nd January, 1930.
†Irish Free State	18th August, 1930.
†New Zealand	22nd January, 1930.
†South Africa	22nd January, 1930.
China	7th August, 1929.
Ethiopia	18th September, 1935.
Iran	4th July, 1929.
†Iraq	8th September, 1931.
Liberia	2nd April, 1927.
Mexico	15th March, 1932.
†U.S.S.R.	5th April, 1928.

* (1) The said Protocol is only binding on His Britannic Majesty as regards those Powers and States which have both signed and ratified the Protocol, or have finally acceded thereto;

(2) the said Protocol shall cease to be binding on His Britannic Majesty towards any Power at enmity with Him, whose armed forces, or the armed forces of whose allies, fail to respect the prohibitions laid down in the Protocol.

† Subject to reservations to the same effect as that made by the United Kingdom.

By Command of the Army Council,



THE WAR OFFICE,
31st January, 1936.

LONDON

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 14

PART I

1. CHAPTER III Page 20 *For footnote 1 substitute—*

1. *See specimen charges Nos. 38 and 38A, p. 720.*

2. CHAPTER V. Paragraph 100. Line 3.

For " of all " substitute " from ".

3. CHAPTER VI. Page 73.

Paragraph 13. *Delete from " Again " in line 14 to " disproved^{1A} " in line 17.*

Paragraph 14. *Delete from " As " in line 1 to " intention " in line 3, and substitute " Intention ".*

Delete footnote 1A (as promulgated by Amendments No. 4 notified in Army Order 150 of 1930).

4. CHAPTER VII.

Page 115. Paragraph 42.

Line 1. *For " any action " substitute " any voluntary action ".*

Delete lines 3 to 5, and substitute—

The circumstances in which a person is criminally responsible¹ for homicide are dealt with in the following paragraphs.

Lines 10 and 11. *Delete " , and the accused cannot be made responsible ".*

Line 13. *For " conduct " substitute " act or negligence ".*

Page 116. Paragraph 44.

Delete from " The " in line 1 to " responsibility² " in line 4 and substitute—

To establish the offence of murder it is incumbent on the prosecution to prove that death occurred as the result of the

110
General
4855

110
General
4855

Amdt. 14
Feb., 1936

Amdt. 14
Feb., 1936

to show by evidence, or by examination of the evidence adduced by the prosecution, that the homicide was without malice, being either accidental or unintentional or provoked. If the tribunal are either satisfied with his explanation or, on a review of all the evidence, left in reasonable doubt whether, even if his explanation be not accepted, the act was accidental or unintentional or provoked, the accused is entitled to be acquitted of murder.²

Paragraph 46.

Delete the first sub-paragraph and substitute—

Amdt. 14
Feb., 1936

46. It may be taken generally that in all cases where a killing, though not with malice, is nevertheless incapable of justification or excuse, it is manslaughter.¹

110
General
4955

Delete footnote 2 on page 116 (as promulgated by Amendments No. 4 notified in Army Order 150 of 1930), and substitute—

Amdt. 14
Feb., 1936

2. *Woolmington v. Director of Public Prosecutions* (1935), 25 Cr. App. Rep., p. 72.

110
General
4955

PART II

THE ARMY ACT

5. Section 164. Note.

Line 5. *After* "indictment" *insert* "at assizes or quarter sessions"

Add at end of note—

Amdt. 14
Feb., 1936

at the expiration of ten days from the date of conviction. This does not apply in the case of convictions at petty sessions.

110
General
4955

6. Section 182. Note 3.

Delete the first three lines and substitute—

Amdt. 14
Feb., 1936

3. A private soldier or N.C.O. who holds the "acting" rank of warrant officer is an acting non-commissioned officer within the meaning of sec. 183, proviso (c), and may be ordered by his C.O. for an offence or otherwise to revert to his permanent grade.

110
General
4955

RULES OF PROCEDURE

7. RULE 56. Note. Line 8 from bottom of page 656.

For "of all" *substitute* "from".

SPECIMEN CHARGES

8. Page 720. *After* "Specimen Charge No. 33" *insert—*

Amdt. 14
Feb., 1936

Note.—This charge is applicable only to cases where actual orders for embarkation (K.R., 1935, para. 1190) have been issued and brought to the notice of the accused. Where "hold in readiness" orders only (K.R., 1935, para. 1183) can be proved to have been issued and brought to the notice of the accused, the charge is not applicable.

110
General
4955

Insert new Specimen Charge—

No. 33A

CHARGE-SHEET

110

General

4955

The accused, No. , Private
Battalion, Regiment, a soldier
of the Regular Forces, is charged with—
[When on active service] deserting His Majesty's service, in
that he, at , on
after having been warned to proceed for service [overseas or
as the case may be], with intent to avoid so proceeding, absented
himself without leave from the
Regiment, from until

Sec. 12

(1) (a),
Army Act

9. Army Form A 3996. Page 795.

Sub-paragraph (ii). Line 4. Delete "mitigate,".

By Command of the Army Council,



THE WAR OFFICE,
29th February, 1936

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 15

PART I. CHAPTER XII.

1. Paragraph 9. *After "borough" in line 2 insert a notation figure "11".*

110
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4979

Delete from ", and" in line 2 to "council" in line 5.

Page 244. Line 6. *After "office." insert new sub-paragraph :—*

An officer on full pay or soldier may not voluntarily accept any office in any municipal corporation or other local government council, or allow himself to be nominated for election to any such office, without the sanction of the Army Council.^{4A}

110
General
4979

Insert new footnote—

^{4A} K.R. (1935), 530A.

PART II. THE ARMY ACT.

2. Page 423. *Against Section 146. Delete "or mayors".*

3. Section 57. Sub-section (2). Paragraph (a).
Line 4. *After "officer" insert—*

or, except in the United Kingdom, the officer, not below the rank of field officer or corresponding rank, commanding the body of the forces to which the offender belongs or the command within which they are serving, whether such officer is an officer of the navy, army or air force ;

110
General
4979

4. Section 146. Line 5. *Delete from ", or to be mayor" to end of section.*

Marginal heading. Delete "or mayors".

5. Section 184B (promulgated by Amendments No. 9 notified in Army Order 138 of 1934).

Add at end :—

NOTE

^{Amdt. 15}
^{June, 1936} See regulation made under this section by the Army Council and the Governor-General of India on p 817.

110
General
4979

DISCIPLINARY REGULATIONS AND ORDERS.

6. Page 817. *Add at end—***Amdt. 15** **RELATIONS BETWEEN MILITARY FORCES AND INDIAN**
June, 1936 **AIR FORCE WHEN SERVING TOGETHER**110
General
4970

Regulation made on the 28th September, 1935, by the Army Council and the Governor-General of India under Section 184B of the Army Act.

Whereas Section 184B of the Army Act applies only when such conditions as may be prescribed by Regulations made by the Army Council and the Governor-General of India in Council are complied with.

Now, therefore, it is hereby declared that the said section shall apply in the following circumstances :—

In case of emergency, when a body of His Majesty's regular forces and a body of an air force raised in India are acting together and reference to the Army Council and the Governor-General of India would cause undue delay, an order in writing applying the section may be made by the officers commanding the two forces respectively, provided that a report of the facts shall be made as soon as possible to the Government of India for transmission to the Army Council.

For the purposes of this regulation, the relative ranks of officers of the different forces shall be as shown in the following table :—

<i>Army</i>		<i>Indian Air Force.</i>
Lieutenant-Colonel	...	Wing Commander.
Major ... ..	...	Squadron Leader.
Captain ... ..	...	Flight Lieutenant.
Lieutenant ... ..	...	Flying Officer.
Second Lieutenant	...	Pilot Officer.

By Command of the Army Council,



THE WAR OFFICE,
30th June, 1936

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 16

PART I

1. CHAPTER III

Paragraph 9, page 17. Line 1. *After* "striking" insert a notation symbol "1A".

110
General
6063

Insert new footnote—

1A See, however, note 1B to A.A. 56 on p. 484.

2. CHAPTER V.

Paragraph 31, line 5. *After* "law" insert a notation symbol "4A".

Page 50. *Insert new footnote—*

4A See, however, R.P. 134A and note thereto.

Paragraph 36, line 7. *After* "law" insert a notation symbol "3A".

Page 51. *Insert new footnote—*

3A See, however, R.P. 134A and note thereto.

PART II

THE ARMY ACT

3. Section 6.

Sub-section (2). Paragraph (c). *After* "strikes" insert a notation symbol "9A".

Insert new note on page 431—

9A. An accused charged under this section with striking a sentinel could not properly be found guilty of using or offering violence to a sentinel under s. 56 (4A). See note 1B to that section.

4. Section 37.

Add at end of note 1A—

An accused charged under this section with striking a soldier could not properly be found guilty of using or offering violence to a soldier under s. 56 (4A). See note 1B to that section.

12. Page 697. *After* Rule 134 and note thereto insert new rule and note—

134A. The expression "military law" in Rules 19 (A), 24 and 87 (A) of these rules shall, as regards Indian commissioned officers (as defined in Section 7 (2) of the Indian Army Act), include "Indian military law" when used in relation to the trial by court-martial under the Army Act of an officer or soldier belonging to His Majesty's Indian forces.¹

Eligibility of Indian commissioned officers to officiate at court-martial.

1. This rule enables Indian commissioned officers to officiate as members (if otherwise eligible and duly qualified under the Army Act and Rules of Procedure) or as prosecutors or as defending officers at courts-martial held under the provisions of the Army Act for the trial of personnel belonging to His Majesty's Indian forces who are subject to military law.

13. SECOND APPENDIX.

Delete lines 7-10 of the *Note* on page 742 and *substitute*—

"I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of inquiry respecting the matters forming the subject of the charge (charges) before this Court-Martial."

[*Notes*.—These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 9), 1937.]

By Command of the Army Council,



WAR OFFICE,

31st March, 1937

LONDON

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5. Section 41.

Paragraph (5). Line 4 *After* "elsewhere" *insert* a notation symbol "4A".

Insert new note—

4A. It should be noted that an accused can be charged under this section with a civil offence, wherever committed, provided that the offence would if committed in England, be punishable by the law of England. Local laws and ordinances abroad are not part of the law of England. Consequently contraventions of their provisions cannot properly be laid as offences under this section. See R.P., App. L. s. 41 (5) on p 718.

6. Section 56.

Sub-section (1). Line 2. *After* "stealing" *insert* a notation symbol "1A".

Sub-section (2). *After* "embezzlement" *insert* a notation symbol "1A".

Sub-section (4A). Line 2. *After* "violence" *insert* a notation symbol "1B".

Insert new notes—

1A. This applies only where the charge is laid under s. 17 or s. 18 (4). See, however, sub. (6) regarding such offences when charged as civil offences under s. 41.

1B. This applies only where a charge of striking is laid under a section of the Act (*i.e.*, s. 8 (1) and (3) or s. 10 (1) and (2)) which itself makes punishable the use or offer of violence as well as striking. It does not apply to charges of striking laid under s. 8 (3) (c) or s. 37 (1), as those sections do not create any offences of using or offering violence and consequently do not prescribe any punishment for the use or offer of violence.

7. Section 57A.

Note 7. *For* the portion in parenthesis *substitute—*

(See Army Orders 121 of 1928: 168 and 197 of 1929: 5 of 1937.)

8. Section 183.

Note 2A (as promulgated by Amendments No. 7 notified in Army Order 96 of 1932). *Add* at end—

The General Officer Commanding, British Forces in Palestine and Trans-Jordan.

RULES OF PROCEDURE

S.R.O. 226
1937

9. Rule 19 (A), line 2. *After* "law" *insert* a notation symbol "1A".

Insert new note—

1A. See, however, r. 134A and note thereto.

10. Rule 24, line 4. *After* "law" *insert* a notation symbol "2".

Insert new note—

2. See, however, r. 134A and note thereto.

11. Rule 87 (A), line 3. *After* "law" *insert* a notation symbol "1".

Insert new note—

1. See, however, r. 134A and note thereto.

Re-number existing note 1 (and the corresponding notation symbol in paragraph (A)) as "1A".

MANUAL OF
ARMY

1. CHAPTER III.
Paragraph 27.
Burma.

2. CHAPTER V.
Paragraph 7.
manding, either
substitute "or of
Paragraph 98
Line 4. *After*
Line 5. *Delete*
Line 6. *After*

3. CHAPTER V.
Paragraph
India."

4. CHAPTER
Paragraph
insert "Burma

5. CHAPTER
Paragraph
"Burma for
Paragraph
Delete first
substitute—

Amended 17
July, 1937

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MANUAL OF MILITARY LAW, 1929 AMENDMENTS No. 17

PART I

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General
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1. CHAPTER III.

Paragraph 27. Line 4. *After "India" insert " ,
Burma "*.

2. CHAPTER V.

Paragraph 7. Lines 4 and 5. *Delete " officer com-
manding, either in the colonies or on active service " and
substitute " or other officer in chief command " .*

Paragraph 98.

Line 4. *After "India" insert " or Burma " .*

Line 5. *Delete " both " .*

Line 6. *After "India" insert " , Burma "*

3. CHAPTER VII.

Paragraph 3. Line 9. *Delete " in most parts of
India, " .*

4. CHAPTER X.

Paragraph 23. Penultimate line. *After "India,"
insert "Burma," .*

5. CHAPTER XI.

Paragraph 1. *Below " Dominion forces ; " insert
" Burma forces ; " .*

Paragraph 81.

*Delete from " The " in line 1 to " law. " in line 13 and
substitute—*

Amdt. 17
July, 1937

The Indian regular forces consist of regiments and formations normally stationed in India and formed almost entirely of Indians. The Indian commissioned officers and Viceroy's commissioned officers hold commissions issued by the Governor-General of India on behalf of, and in the name of, His Majesty, respectively. They, and the men of these forces, are subject to the Indian Army Act, 1911, wherever they are serving. There are also Europeans, and a certain number of Indians, serving as officers, and Europeans and persons of certain degrees of European descent serving as warrant officers, non-commissioned officers or otherwise, who, though forming

110
General
5095

part of the Indian forces, belong to His Majesty's regular land forces and are subject to British and not to Indian military law.

Add at end—

There is also the Army in India Reserve of Officers, of which the European Wing consists of officers subject to the Army Act when called out in any military capacity, while the Indian Wing includes Indian commissioned officers subject in similar circumstances to the Indian Army Act.

Officers of the Indian Army and Indian Army Departments, and Indian commissioned officers, who retire on pension or gratuity become members of the Indian Regular Reserve of Officers and are liable to be recalled to service until they reach the age-limits laid down in the Royal Warrant constituting that Reserve. Other officers of the regular forces who retire under Indian regulations from the Indian establishment also become members of the Indian Regular Reserve of Officers and are similarly liable to recall.

After paragraph 82 insert new heading and paragraph—

BURMA FORCES

Amdt. 17
July, 1937

82A. The Burma regular forces consist of regiments and formations normally stationed in Burma and formed mainly of persons belonging to races indigenous to Burma. Governor's commissioned officers and men of these forces are subject to the Burma Army Act wherever they are serving. European officers serving with these forces belong to His Majesty's regular land forces and not to the Burma forces. They, like other persons of European descent serving as warrant officers, non-commissioned officers or otherwise, are subject to British and not to Burma military law.

In addition to the Burma regular forces, there are the Burma Auxiliary Force and Burma Territorial Force. The Burma Frontier Force forms part of the Burma Defence Force but is not normally subject to the Burma Army Act.

PART II.

THE ARMY ACT

6. ARRANGEMENT OF SECTIONS.

Page 423.

Section 134. After "India" insert "or Burma".

Section 135. After "India" insert " , Burma ".

Page 424.

Section 168. After "India," insert " Burma ".

Section 169. After "India" insert " , Governor of Burma ".

Section 177. After "belonging to" insert " Indian, Burma or ".

Section 180 (as amended by Amendments No. 7 notified in Army Order 96 of 1932).

After "India" insert " or Burma ".

After "Indian" insert " and Burma ".

Observations on
Burma
forces.
110
General
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Page 425.

Delete Section 187B.
Amendments No. 4 not

7. Section 13.

Sub-section (1). Par
After "India" insert

8. Section 18.

Note 14. Line 5.

9. Section 54.

Sub-section (8). L
Burma "

Add at end " , or ,
of Burma ".

Sub-section (9). I
insert " or , if be h
Governor of Burma,

Delete Note 9 and
1 For definitions of I

10 Section 59.
insert " , Burma ".

Note 2. Line 1
After " (21) " insert

11. Section 60.

Line 5. After

Line 11. After

Note 2. Line

After "India"

After " (21) "

12. Section 61.

Amendments N

1935). Lines

" , Burma ".

Proviso (b)

" , Burma ".

Last line. A

a Province in I

Note 7. De

For definitions

(20) (21) (21A) and

13. Section

Paragraph

" , Burma ".

Paragraph

" , Burma ".

Paragraph

" , Burma ".

Page 425.

Delete Section 187B. and detail (as promulgated by Amendments No. 4 notified in Army Order 150 of 1930).

7. Section 13.

Sub-section (1). Paragraph (a). Last line.

After "India" *insert* ", Burma".

8. Section 18.

Note 14. Line 5. *Delete* "of India or".

9. Section 54.

Sub-section (8). Line 1. *After* "India" *insert* "or Burma".

Add at end " , or, as the case may be, by the Governor of Burma".

Sub-section (9). Line 7. *After* "Governor-General," *insert* "or, if he has been tried in Burma", by the Governor of Burma,"

Delete Note 9 and *substitute*—

9. For definitions of India and Burma, see s. 190(21) (21A).

10 Section 59. Lines 4 and 15. *After* "India" *insert* ", Burma".

Note 2. Line 1. *After* "India" *insert* ", Burma".
After "(21)" *insert* ", (21A)".

11. Section 60.

Line 5. *After* "India" *insert* ", or Burma".

Line 11. *After* "India" *insert* ", or Burma".

Note 2. Line 2.

After "India" *insert* ", Burma".

After "(21)" *insert* "(21A)".

12. Section 64. Sub-section (4) (as amended by Amendments No. 10, notified in Army Order 115 of 1935). Lines 3 and 5. *After* "India" *insert* ", Burma".

Proviso (b). Line 2. *After* "India" *insert* ", Burma".

Last line. *After* "India" *insert* ", the Governor of a Province in India, the Governor of Burma".

Note 7. *Delete* first sentence and *substitute*—

For definitions of Dominion, India, Burma, and colony, see s. 190 (25) (21) (21A) and (23A)

13. Section 68. Sub-section (2).

Paragraph (f). Line 4. *After* "India" *insert* ", Burma".

Paragraph (g). Lines 5 and 7. *After* "India" *insert* ", Burma".

Paragraph (h). Line 5. *After* "India" *insert* ", Burma".

14. Section 94.

Line 6. *After* "India" *insert* ", Burma".

Line 19 (as promulgated by Amendment No. 7 notified in Army Order 96 of 1932). *Below* "Dominion; and" *insert* new sub-paragraph—

In Burma, any person duly authorised in that behalf by the Governor of Burma; and

Note 2.

After "India" *insert* ", Burma".

After "(21)" *insert* "(21A)".

15. Section 122. Sub-section (6). Line 7. *After* "India," *insert* "the Governor of Burma,".

16. Section 127.

Lines 4 and 5. *Delete* "the provisions of the Indian Evidence Act, 1872,¹ or to any Act," and *substitute* "any Act.¹".

Line 5. *After* "legislature" *insert* "or authority".

Note 1. *Delete* from "The" in line 2 to end of note 1.

17. Section 130. Sub-section (5).

Lines 5 and 6. *Delete* "presidency in which the person is confined," and *substitute*—

Amdt. 17
July, 1937

Provinces in which the person is confined and, in the case of a person confined in Burma, the Governor of Burma,

110
General
law

Lines 11 and 12. *After* "India," *insert* "Burma".

18. Section 132.

Sub-section (1).

Line 2. *After* "Governor-General," *insert* "and in Burma for the Governor".

Line 4. *For* "or Governor-General" *substitute*—" , Governor-General or Governor".

Sub-section (2). Line 2. *After* "Governor-General," *insert* "and in Burma for the Governor".

Last paragraph of sub-section (2). *Delete* line 1 and *substitute*—

The Secretary of State, the Governor-General and the Governor of Burma shall by rules

19. Section 134.

Lines 3 and 10. *After* "India" *insert* "or Burma".
Marginal heading. *After* "India" *insert* "or Burma".

20. Section 135.

Line 2. *After* "India" *insert* ", the Governor of any Province in India, the Governor of Burma".

Line 3. *For* "or in such colony" *substitute* ", Burma or that colony".

Last line. *After* "Indi
the Province, the Govern
Marginal heading. *Af*

21. Section 136.

Lines 4 and 5. *Delete*
General of India in Co
time being in force in In
of India a law of the l

22. Section 137. Pa

Line 4. *After* "Gov
one of officers serving
Line 8. *After* "Ind
Line 9. *For* "in C
may be, for Burma,".

Note 6. Line 2.
error-General".

Last line. *Delete*

Similarity. In the case
error will decide, be
to the Secretary of

23. Section 143.

Page 354.

Line 2. *For* "th

Line 3. *For* "or

Note 1. Line 2.

Note 3.

After "India"

After "(21)" i

24. Section 15

Paragraph (5)
Burma."

Paragraph (7)
Burma".

Note 4.

After "India"

After "(21)"

25. Section 1

Sub-section
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Lines 3 and
reduces" *substi*

Line 5. A
error".

Note 1.

Line 1. A

Line 2. A

Note 2.

After "I

After "(2

Last line. After "India" insert "the Governor of the Province, the Governor of Burma".

Marginal heading. After "India" insert ", Burma".

21. Section 136.

Lines 4 and 5. Delete "passed by the Governor-General of India in Council." and substitute "for the time being in force in India or Burma, being in the case of India a law of the Indian legislature."

22. Section 137. Paragraph (4).

Line 4. After "Governor-General," insert "or, in the case of officers serving in Burma," the Governor,".

Line 8. After "India" insert "or Burma".

Line 9. For "in Council" substitute "or, as the case may be, for Burma,".

Note 6. Line 2. For "Viceroy" substitute "Governor-General".

Last line. Delete "in Council" and insert—

Amdt. 17
July, 1937

Similarly, in the case of officers serving in Burma, the Governor will decide, but the officer will have a right of appeal to the Secretary of State for Burma.

116
General
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23. Section 143.

Page 554.

Line 2. For "the" substitute "any".

Line 3. For "or any" substitute ", Burma or a".

Note 1. Line 2. After "Indian" insert "and Burma".

Note 3.

After "India" insert ", Burma".

After "(21)" insert "(21A)".

24. Section 154.

Paragraph (5). Line 8. After "India" insert "or Burma,".

Paragraph (7). Line 5. After "India" insert ", Burma".

Note 4.

After "India" insert ", Burma".

After "(21)" insert "(21A)".

25. Section 156.

Sub-section (8). Line 1. After "India" insert ", or the Governor of Burma,".

Lines 3 and 4. For "by any law or ordinance to reduce" substitute "to provide for reducing".

Line 5. After "Governor-General" insert ", Governor".

Note 1.

Line 1. After "India" insert "and Burma".

Line 2. After "Indian" insert "and Burma".

Note 2.

After "India" insert ", Burma".

After "(21)" insert "(21A)".

26. Section 162.

Sub-section (3). Lines 9 and 10. For "supreme court in India," substitute "High Court in India or Burma,".

27. Section 163.

Sub-section (1). Paragraph (d). Line 5. After "Governor-General of India" insert "and, if in Burma, by some office under the Governor of Burma,".

Sub-section (2). Line 2. After "India" insert "or Burma."

28. Section 168.

Line 5. After "India," insert "Burma,".

Note 1.

After "India" insert ", Burma".

After "(21)" insert "(21A)".

Marginal heading. After "India," insert "Burma,".

29. Section 169.

Line 1. After "India," insert "and the Governor of Burma,".

Line 2. Delete "by law".

Line 4. After "Governor-General" insert ", Governor".

Marginal heading. After "India" insert ", Governor of Burma,".

30. Section 170.

Page 575.

Lines 3 and 4. For "supreme court in India," substitute "High Court in India or Burma,".

Line 6. After "Indian" insert ", Burma".

31. Page 578.

Line 16. For "and Indian" substitute ", Indian and Burma".

Line 20. After "Indian" insert "and Burma".

Sub-paragraph (3). Line 1. For "and India" substitute ", India and Burma".

Sub-paragraph (4).

Line 2. After "India" insert "or of the Governor of Burma".

Line 4. After "India" insert "or Burma".

Line 5. After "law" insert "or Burma military law, as the case may be".

Sub-paragraph (8). Line 1. After "India" insert ", Burma".

Sub-paragraph (9). Lines 1 and 2. After "India" insert ", Burma" in each case.

32. Section 175.

Paragraph (4). Line 4. For "and of India," substitute ". India and Burma,".

Paragraph (7).

Line 3. *After* "India" *insert* "or of the Governor of Burma".

Line 7.

After "India" *insert* "or Burma".

After "law" *insert* "or, as the case may be, to Burma military law, but in either case".

Paragraph (11). Line 1. *After* "India" *insert* ", Burma".

Paragraph (12). Lines 1 and 2. *After* "India" *insert* ", Burma" in each case.

Note 4.

Line 5. *After* "India" *insert* "or the Governor of Burma".

Line 8. *Delete* "of the Governor-General,"

Line 9. *After* "India" *insert* "or Burma".

After "Indian" *insert* "or Burma".

33. Section 176.

Paragraph (3). Line 3. *For* "and of India," *substitute* ", India, and Burma,".

Paragraph (8A). Line 2. *After* "India" *insert* ", Burma".

Paragraph (10). *Delete* lines 8 and 9 and *substitute*—

or consisting partly of His Majesty's Burma forces subject to Burma military law, and such persons are natives of India or, as the case may be, natives of Burma, they shall be subject to Indian military law or, as the case may be, to Burma military law.

Paragraph (11). Lines 2 and 3. *After* "India" *insert* ", Burma" in each case.

34. Section 177.

Line 2.

For "or in a colony" *substitute* ", Burma or a colony".

After "law of India" *insert* ", Burma".

Lines 5 and 13. *After* "India" *insert* ", Burma".

Note 1.

Line 1. *After* "India" *insert* ", Burma".

After "(21)" *insert* "(21A)".

Marginal heading. *After* "belonging to" *insert* "Indian, Burma or".

35. Section 180.

Sub-section (1). Lines 2, 6 and 9. *After* "India" *insert* "or Burma".

Delete sub-section (2) and *substitute*—

(2) In the application of this Act to His Majesty's Indian forces and His Majesty's Burma forces (hereafter in this section referred to as the Indian forces and the Burma forces respectively) the following modifications shall be made—

(a) nothing in this Act shall prejudice or affect the Indian military law respecting officers or soldiers

Amdt 17
July, 1937

110
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Amdt 17
July, 1937

110
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belonging to or followers in the Indian forces, being natives of India,³ or the Burma military law respecting officers or soldiers belonging to or followers in the Burma forces, being natives of Burma,³ and on the trial of all offences committed by any such officer, soldier or follower reference shall be had to the Indian military law or, as the case may be, the Burma military law for such officers, soldiers or followers, and to the established usages of the service, but court-martial for such trials may be convened in pursuance of this Act;

- (b) Indian military law or, as the case may be, Burma military law shall extend to such officers, soldiers and followers as aforesaid wherever they are serving;
- (c) the Governor-General of India may suspend the proceedings of any court-martial held in India on an officer or soldier belonging to the Indian forces or to the Burma forces; and the Governor of Burma may suspend the proceedings of any court-martial held in Burma on any such officer or soldier;
- (d) an officer belonging to the Indian forces who thinks himself wronged by his commanding officer and on due application made to him does not receive the redress to which he considers himself entitled may complain³ to the Governor-General of India, who shall cause his complaint to be inquired into and if so desired by the officer shall make a report through the Secretary of State to His Majesty in order to receive the directions of His Majesty thereon;
- (e) a court-martial or, where the case is dealt with summarily under the provisions of this Act, the authority having power so to deal with the case may sentence an officer belonging to the Indian forces to forfeit all or any part of his service for the purposes of promotion and, in addition, if the court or authority thinks fit, to be severely reprimanded or reprimanded;
- (f) the Governor-General of India in the case of the Indian forces, and the Governor of Burma in the case of the Burma forces, may reduce any warrant officer to a lower grade of warrant rank, or may remand any such warrant officer to regimental duty in the regimental rank held by him immediately before his appointment to be a warrant officer;
- (g) the provisions of this Act relating to warrant officers shall apply to hospital apprentices in India or Burma although not appointed by warrant;
- (h) Part II of this Act shall not apply to the Indian forces or the Burma forces, but persons may be enlisted and attested in India or Burma⁴ for medical service or for other special service in the

Indian forces or the Burma forces for such periods, by such persons and in such manner as may be from time to time authorised by the Governor-General or the Governor of Burma.

Sub-section (3). Line 1. *After "India" insert "or Burma".*

Add at end of Note 1 :—

Amdt 17
July, 1937

which code, as adapted by the Government of Burma (Adaptation of Laws) Order, 1937, also applies in regard to courts in Burma.

110
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Delete Note 2 and substitute—

Amdt 17
July, 1937

2. *Nations of India...nations of Burma.* See definition in s. 190 (72). A court-martial on a person subject to Indian military law or Burma military law must accord with the provisions of that law, but under this sub-section may be convened by an officer authorised to convene a court-martial under the Army Act. It will be observed that Indian military law or Burma military law is by this sub-section made applicable to persons subject to such law wherever they are serving.

110
General
5006

Delete Note 4 and substitute—

Amdt 17
July, 1937

4. For definitions of *India* and *Burma*, see s. 190 (21) (21A). Europeans cannot be enlisted for service in India or Burma only, except under the provisions of this sub-section which permits Europeans to be enlisted for medical or other special service in manner from time to time provided by the Governor-General of India or the Governor of Burma.

110
General
5006

Marginal heading (as amended by Amendments No. 7 notified in Army Order 96 of 1932).

After "India" insert "or Burma".

After "Indian" insert "and Burma".

36. Section 181.

Sub-section (1). Line 5. *After "India" insert "or Burma".*

37. *Delete* Section 187B (as promulgated by Amendments No. 4 notified in Army Order 150 of 1930).

38. Section 190.

Paragraph (8). Penultimate line. *For "and His Majesty's Indian forces" substitute "His Majesty's Indian forces and His Majesty's Burma forces".*

Delete paragraphs (21) and (22) and insert—

Amdt 17
July, 1937

(21) The expression "British India" means all territories for the time being comprised within the Governors' Provinces and the Chief Commissioners' Provinces, and the expression "India" means British India together with all territories of any Indian Ruler under the suzerainty of His Majesty, all territories under the suzerainty of any such an Indian Ruler, the tribal areas and any other territories which His Majesty in Council may from time to time after ascertaining the views of the Federal Government and the Federal Legislature, declare to be part of India:

110
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(21A) The expression "Burma" includes (subject to the exercise by His Majesty of any powers vested in him with respect to the alteration of the boundaries thereof) all territories which were immediately before the first day of April, nineteen hundred and thirty-seven, comprised in India, being territories lying to the east of Bengal, the State of Manipur, Assam and any tribal areas connected with Assam, and the expression "British Burma" means so much of Burma as belongs to His Majesty:

(21B) The expressions "tribal areas" and "Ruler" have for the purposes of the foregoing definitions, the same meanings as they have in the Government of India Act, 1935:

(22) The expressions "native of India" and "native of Burma" mean respectively a person triable and punishable under Indian military law or Burma military law:

Paragraph (23A).—(as promulgated by Amendments No. 7 notified in Army Order 96 of 1932). Line 3. After "India" insert ", of British Burma".

Paragraph (24). Line 2. For "or India," substitute "India or Burma".

Paragraph (30). Delete from "supreme" in line 1 to "expression" in line 2.

Paragraph (33). Line 2. After "India" insert "or Burma".

Paragraph (35). Sub-paragraph (d). Line 1. After "India," insert "Burma".

Delete Note 8.

Note 11. Line 2. After "India," insert "Burma".

RULES OF PROCEDURE, 1926

S.R.O. 660
1937

39. Page 614. Rule 127.

For "(India)" substitute "(India or Burma)".

40. Rule 17.

Paragraph (C). Last line. After "India" insert—
, and, in Burma, to the General or other officer in chief command of the forces in Burma.

41. Rule 73.

Note 3.

Line 4. Delete "the provisions of the Indian Evidence Act, 1872, or to".

Line 5. After "legislature" insert "or authority".

42. Rule 88.

Paragraph (A). Sub-paragraph (ii).

Lines 1 and 2. For "or India" substitute ", India or Burma".

Line 4.

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45. Rule 127

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46. Rule 130

Delete "and i

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April, 19

Line 4. After "officer." insert—

and when held in Burma, if the General Officer Commanding the forces in Burma, or the convening officer.

43. Rule 93.

Paragraph (B). Sub-paragraph (iii). Line 1. *After "India" insert "or Burma".*

44. Rule 126.

Paragraph (D). *After sub-paragraph (i) insert new sub-paragraph—*

Amdt. 17 July, 1937	(ia) In Burma—the General Officer Commanding the forces in Burma, and his deputy or assistant adjutant and quartermaster-general, and any officer not under the rank of brigadier in or under whose command the military convict may for the time being be ;	110 <hr/> General 5096
------------------------	--	------------------------------

Paragraph (F). *After sub-paragraph (ii) insert new sub-paragraph—*

Amdt. 17 July, 1937	(iia) In Burma—the General Officer Commanding the forces in Burma, and his deputy or assistant adjutant and quartermaster-general, and any officer not under the rank of brigadier in or under whose command the military convict may for the time being be ;	110 <hr/> General 5096
------------------------	---	------------------------------

Paragraph (H). *After sub-paragraph (ii) insert new sub-paragraph—*

Amdt. 17 July, 1937	(iia) In Burma—the General Officer Commanding the forces in Burma, and his deputy or assistant adjutant and quartermaster-general, and any officer not under the rank of brigadier in or under whose command the military convict or soldier under sentence was serving when the sentence was passed or may for the time being be ;	110 <hr/> General 5096
------------------------	---	------------------------------

Paragraph (I). *Below line 10 insert—*

In Burma—any of the authorities named in sub-paragraph (iia) of paragraph (H) of this rule ;

45. Rule 127.

Marginal heading. *For "(India)" substitute "(India or Burma)".*

46. Rule 130. Table. Group VI.

Delete "and including Aden and Perim." and insert—

"Burma.
Aden."

[*Note.*—These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 10), 1937, and shall come into operation on the first day of April, nineteen hundred and thirty-seven.]

PART III

REGIMENTAL DEBTS ACT, 1893

47. Page 876.

Section 16. Line 3. After "India" insert "or Burma".

48. Page 878.

Section 25.

Line 1. *For* "as if it were a colony," *substitute* "and to Burma as if they were colonies,".

Line 4. *After* "law" *insert* ", or to any native of Burma within the meaning of Burma military law".

49. Page 879.

Section 26.

Line 1. *After* "India" *insert* "or Burma".

Line 3. *After* "India" *insert* "or of the general officer commanding the forces in Burma".

Lines 3 and 4. *Delete* "or of any provincial commander-in-chief in India".

Paragraph (4). Lines 1 and 2. *For* "The secretary to the Government of India in the military department" *substitute* "The Governor-General of India or, as the case may be, the Governor of Burma".

Section 27.

Lines 4 and 5. *For* "the Indian military and orphan funds, or either of them," *substitute* "any officially recognised pension or provident fund."

Delete Section 28.

Section 29. Lines 6 and 7. *After* "India" *insert* ", Burma" in each case.

Line 13

Delete "presidency or".

After "province," *insert* "and in Burma the administrator-general of Burma,".

50. Page 881.

Line 15 of the Warrant. *After* "India" *insert* notation mark "1".

Above the Regulations *insert*—

Amdt. 17
July, 1937

GEORGE R.I.

WHEREAS Her late Majesty Queen Victoria, by Warrant dated 30th August, 1893, was pleased to make the Regulations thereunto annexed, being Regulations under the Regimental Debts Act, 1893, which have, from time to time, been amended by subsequent Warrants;

AND WHEREAS by the Government of India (Adaptation of Acts of Parliament) Order, 1937, We were pleased to order that, amongst other things, the Regimental Debts Act, 1893, should have effect subject to the adaptations and modifications specified in Part II of the Schedule to the Order in Council aforesaid;

110
General
50.5

OUR WILL AND PLEASURE IS that the amendments specified in the Schedule annexed hereto shall be made to the said Regulations, and that the aforementioned Warrant and Regulations (as so amended) shall be administered, construed and interpreted by Our Secretary of State for War, Our Secretary of State for India and Our Secretary of State for Burma, as the case may require, subject otherwise to the provisions of the Regimental Debts Act, 1893, and the aforesaid Warrant :

IT IS OUR FURTHER WILL AND PLEASURE that this Our Warrant shall have effect as from 1st April, 1937.

Given at Our Court at St. James's, this 13th day of May, 1937, in the 1st year of Our Reign.

By His Majesty's Command,
DUFF COOPER.

At foot of page *insert* footnote—

1. See Royal Warrant dated 13th May, 1937.

REGULATIONS UNDER THE REGIMENTAL DEBTS ACT, 1893—AMENDMENTS

51. Page 882.

Paragraph 7.

Sub-paragraph (a). *After* "India" *insert* "or Burma".

Sub-paragraph (b). *For* the first 21 words of the clause, *substitute* the following :—

Amdt 17
July, 1937

Where the deceased, having been a member of the Indian Services at the time of his death, has died elsewhere than in Burma, or not having been a member of the Indian Services has died in India,

110
General
5096

For "Secretary to the Government of India in the Military Department" *substitute* "Government of India"

Delete "Presidency, or".

Add new sub-paragraph—

Amdt 17
July, 1937

(c) Where the deceased has died in Burma, it will, if he was an officer, be sent to the Government of Burma, and, if he was a non-commissioned officer or man of His Majesty's British Forces, it will be kept with the regimental records, unless a surplus is transferred to the Administrator-General of Burma under Section 26 (1) of the Act, in which case it will be sent to him. It will also accompany the remittance of a surplus under Section 26 (2) of the Act.

110
General
5096

52. Page 883.

Paragraph 13.

For "or was a member of the Indian Services" *substitute*—

Amdt 17
July, 1937

or having been a member of the Indian Services has died elsewhere than in Burma

110
General
5096

For "Secretary to the Government of India in the Military Department" substitute "Government of India"

Before the last line of the paragraph insert—

Amdt. 17
July, 1937

Where the deceased, not having been at the time of his death a non-commissioned officer or man of His Majesty's British Forces, has died in Burma, to the Government of Burma.

110
General
5096

53. Page 884.

Paragraph 18. *After "India" insert "or Burma".*

54. Paragraph 19.

After "India", in the three places where the word occurs, insert "or Burma".

For "district paymaster" substitute "command paymaster".

55. Paragraphs 13, 19 and 33. *For "Secretary of the War Office" substitute "Under Secretary of State for War, The War Office"*

56. Paragraph 20. *After "Indian Government", in both places, insert "or of the Government of Burma".*

57. Paragraph 21.

For "was at the time of his death a member of the Indian Services" substitute—

Amdt 17
July, 1937

, having been at the time of his death a member of the Indian Services, has died elsewhere than in Burma

110
General
5096

For "secretary to the Government of India in the Military Department" substitute "Government of India". At the end of the paragraph add—

Amdt. 17
July, 1937

When the deceased, not having been a non-commissioned officer or man of His Majesty's British Forces, has died in Burma, the surplus will be remitted to the Government of Burma.

110
General
5096

58. Page 885.

Paragraph 24. *For "military secretary" substitute—*

Government of India, or, as the case may be, the Government of Burma

59. Paragraph 25.

After "India" insert "or Burma".

For "in the Presidency" substitute "concerned".

For "Secretary of State in Council of India" substitute "Secretary of State for India".

60. Paragraph 26. *After "India" insert "or Burma".*

61. Paragraph 27. *For "Secretary of State in Council of India" substitute "Secretary of State for India".*

62. Page 886.

Paragraph 28.

After "India" insert "or Burma".

For "Secretary to the Government of India in the Military Department" substitute—

Government of India or Government of Burma, as the case may be,

63. Page 887.

Paragraph 31. *After "India" insert "or Burma".*

64. Paragraph 33. *For "Secretary to the Government of India in the Military Department" substitute—*

Government of India by a Committee of Adjustment in India or to the Government of Burma by a Committee of Adjustment in Burma

Amdt. 17
July, 1937

110
General
5096

65. Paragraph 34.

After "Administrator-General" insert "in India or Burma".

After "resident in India" insert "or in Burma, as the case may be,".

After "Government of India" insert "or Government of Burma, as the case may be,".

66. Paragraph 35.

For "Army Pay Department" substitute "Royal Army Pay Corps".

For "district account" substitute "command account".

67. Page 888.

Paragraph 40. *For "or the Secretary of State in Council of India" substitute—*

the Secretary of State for India or the Secretary of State for Burma

68. Page 889.

Paragraph 44. *For "or the Secretary of State in Council of India" substitute—*

the Secretary of State for India or the Secretary of State for Burma

69. Page 890.

Paragraph 50.

For "military secretary, or other officer or person" substitute "or other officer or authority".

For "Secretary of State in Council of India" substitute "Secretary of State for India".

70. Paragraph 51. *For "Secretary of State in Council of India" substitute "Secretary of State for India".*

71. Paragraph 52.

For "Secretary to the Government of India in the Military Department" substitute—

Government of India or the Government of Burma, as the case may be,

For "Presidency" substitute "Province in India".
Add at the end of the paragraph—

or, as the case may be, the Government Gazette of
 Burma

72. Paragraph 53. *Delete "Military Secretary" and
 "Calcutta".*

73. Page 891.

Paragraph 54.

*For "military secretary" substitute "Government
 of India or Government of Burma".*

Delete "with him".

74. Paragraph 55.

*For "military secretary does not dispose of the
 surplus locally under Section 7 of the Act, he will"
 substitute—*

Amdt. 17
July, 1937

surplus is not disposed of locally under Section 7 of
 the Act, the Government of India, or the Govern-
 ment of Burma, as the case may be, will

110
General
5005

*For "Secretary of State in Council of India" substi-
 tute "Secretary of State for India"*

75. Page 892.

Heading. *After "12th May, 1919" insert "and
 12th May, 1937".*

Amdt. 17
July, 1937

76. Page 892. Paragraph 3, and page 893, para-
 graph 5. *For "the Secretary of State for India in
 Council, the Secretary of State for the Colonies, or the
 Secretary to the Government of India in the Army
 Department" substitute "the Secretary of State for
 India, the Secretary of State for the Colonies, the
 Secretary of State for Burma, the Government of India
 or the Government of Burma" in each case.*

110
General
5005

OFFICIAL SECRETS ACT, 1920

77. Page 905. Section 11. Line 11. *For "and
 India" substitute "India and Burma".*

By Command of the Army Council.

THE WAR OFFICE,
 31st July, 1937

LONDON

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 18

PART I

1. CHAPTER V, page 66.

Footnote 2. *For "57(3)" substitute "57(2) proviso".*

2. CHAPTER VII.

Paragraph 7.

Line 2. *For "seven years" substitute "eight years 2A".*

Line 3. *For "seven" substitute "eight".*

Insert new footnote on page 105—

2A Children and Young Persons Act, 1933, s. 50.

110
General
5113

Paragraph 38.

Line 10. *For "nine months" substitute "twelve months 5A".*

Insert new footnote on page 114—

5A Criminal Law Amendment Act, 1923, s. 1.

110
General
5113

3. CHAPTER XI.

Paragraph 83. *Delete from "The" in line 23 to "are" in line 25 and substitute "They are also".*

PART II

ARMY AND AIR FORCE (ANNUAL) ACT, 1932

4. Page 415 (as amended by Amendments No. 7 notified in Army Order 96 of 1932).

Heading. *For "1932" substitute "1937".*

Last line of Note. *For "1932" substitute "1937".*

Preamble to Act

Delete from "one hundred" in line 8 to "Aden:" in line 12 and substitute—

one hundred and sixty-eight thousand nine hundred,
exclusive of the numbers actually serving in India
or Burma :

110
General
5113

Page 416 (as amended by Amendments No. 7 notified in Army Order 96 of 1932).

Lines 1 and 2. *Delete "thirty-two thousand, including those employed as aforesaid, but" and substitute "seventy thousand,"*

Line 30. For "thirty-two" substitute "thirty-seven".
 Section 1 of Act, Line 2. For "1932" substitute
 "1937".

Section 2. Sub-section (1). *Delete* paragraphs (a)
 and (b) and *substitute*—

Amdt. 18
Sept., 1937

- (a) Within Great Britain and Northern Ireland, the
 Channel Islands, and the Isle of Man, from the
 thirtieth day of April, one thousand nine
 hundred and thirty-seven, to the thirtieth day
 of April, one thousand nine hundred and thirty-
 eight, both inclusive; and
 (b) Elsewhere, whether within or without His
 Majesty's dominions, from the thirty-first day of
 July, one thousand nine hundred and thirty-
 seven, to the thirty-first day of July,
 one thousand nine hundred and thirty-eight,
 both inclusive.

110
General
5113

Section 3 of Act. Line 2. *After* "pursuance of"
insert "section one hundred and six of".

Last line. For "1932" substitute "1937".

After heading "FIRST SCHEDULE" *insert* sub-
 heading "PRICES IN RESPECT OF BILLETING".

THE ARMY ACT

5. Section 57.

* Sub-section (2). *Delete* paragraphs (a) to (d) and
substitute—

Amdt. 18
Sept., 1937

- (a) As respects offenders in whatever place they may
 for the time being be, His Majesty or the Army
 Council, or any prescribed officer^a, or, except in
 the United Kingdom, the officer, not below the
 rank of field officer or corresponding rank,
 commanding the body of the forces to which the
 offender belongs or the command within which
 they are serving, whether such officer is an
 officer of the navy, army or air force;

110
General
5113

[*Paras. (b) (c) and (d) repealed by A. & A.F.(A) Act,
 1937.*]

Sub-section (3). Line 1. *Delete* "(3)" and for
 "section" substitute "sub-section".

Before sub-section (4) *insert*—

[*Sub-section (3) transferred to Sub-section (2) by A. &
 A.F.(A) Act, 1937.*]

Delete Note 9.

6. Section 57A.

Note 7 (as amended by Amendments No. 16 notified
 in Army Order 51 of 1937). For "5 of 1937"
 substitute "5 and 71 of 1937".

^a This Amendment came into operation as from 31st July, 1937.

7. Section 72.

Sub-section (1). Line 7. *After "soldier," insert—*

or in any public property issued to him for his use
or entrusted to his care for military purposes,

110
General
5113

Amdt. 18
Sept., 1937

8. Section 90.

Sub-section (2). *Delete last sentence and substitute—*

Provided that the competent military authority 2A
may, with the consent of the soldier, delay his
discharge, so however that he be discharged within
three months from his arrival 2B.

110
General
5113

Amdt. 18
Sept., 1937

Insert new sub-section—

(2A) If a soldier to whom the last preceding sub-section
applies is permitted, at his request, to
stay at the place where he is serving, he shall
not afterwards have any claim to be sent at the
public expense to the United Kingdom or else-
where.

110
General
5113

Amdt. 18
Sept., 1937

Sub-section (4). *Add at end—*

Provided that the competent military authority 2A
may, with the consent of the soldier, delay his
transfer to the reserve, so however that he be trans-
ferred to it within three months from his arrival 2B.

110
General
5113

Amdt. 18
Sept., 1937

*Insert new notes on page 512—*2A. *Competent military authority.* See s. 101 and R.P. 128.

2B. The object of the proviso to subs. (2) and (4), which were
added by the A. & A.F. (A) Act, 1937, is to enable the competent
military authority, with the consent of the soldier, to delay his
discharge or transfer to the reserve for a short period up to 3
months, while seeking opportunities of re-establishing himself in
civil life.

110
General
5113

Amdt. 18
Sept., 1937

9. Section 106. Sub-section (3). Line 2. *For "Act"*
substitute "section".

10. Section 108A.

Sub-section (3). Paragraph (b). Line 6. *For "sub-*
*section" substitute "paragraph".**Delete paragraph (c) and substitute—*

(c) The accommodation to be furnished under this
section by keepers of victualling houses and
occupiers of other buildings shall, as the officer
demanding billets may in each case require, be
either such accommodation as is specified in
section one hundred and six of this Act and the
Schedule therein referred to (as modified by the
next succeeding paragraph), or accommodation
of a more limited character, and the prices to be
paid therefor shall be such as may be fixed for
different kinds of buildings and different classes
of accommodation by regulations made by the
Army Council with the consent of the Treasury :

110
General
5113

Amdt. 18
Sept., 1937

Amdt. 18
Sept., 1937

Sub-section (4). *Add at end—*

Section one of the Rules Publication Act, 1893, (which requires notice to be given of a proposal to make certain statutory rules) shall not apply to any such regulations.

110
General
6113

11. Section 115. Sub-section (9).

Delete from "The" in line 1 to "Act" in line 3 and insert—

Amdt. 18
Sept., 1937

Regulations made under Part I or, as the case may be, Part IA of the Territorial and Reserve Forces Act, 1907, as it applies to the military forces, may assign to an association established thereunder

110
General
6113

Line 7. *For "a county" substitute "the".*

12. Section 155. Lines 1 to 3. *Delete the portion in parenthesis.*

13. Section 172. Sub-section (1).

Lines 2 and 3. *Delete "or Adjutant-General".*

Line 7. *Delete "Adjutant-General,".*

14. Section 183. Note 2A (as promulgated by Amendments No. 7 notified in Army Order 96 of 1932). *Add at end—*

"The General Officer Commanding, Burma."

15. Section 190. Paragraph (8). Last two lines. *Delete ", and the Royal Malta Artillery".*

16. FIRST SCHEDULE.

Page 607. Line 2. *Delete "India or".*

17. SECOND SCHEDULE.

Part I. Paragraph (2). Line 8. *After "Regulations" insert a notation figure "1".*

Insert as footnote on page 607.

"1. See Army Order 499 of 1920."

RULES OF PROCEDURE, 1926.

18. Rule 107.

Paragraph (A). Lines 2 and 3. *For "Rule 106" substitute "Rule 106 (A)".*

S.R.O. 876
1937

Paragraph (C). Line 5. *For "Rule 106" substitute "Rule 106(A)".*

19. * Rule 126.

Delete paragraph (b) and substitute—

mdt. 18
Sept., 1937

(b) The expression "prescribed officer" for the purpose of sub-section (2) of Section 57 of the Army Act means :—

110
General
5113

Elsewhere than in India, the general officer commanding-in-chief the command and the general or other officer commanding the independent command, the district, the division or area in which the trial took place or in which the offender may for the time being be ; and when the trial took place or the offender is for the time being in India, the Commander-in-Chief of the forces in India or such officer as he may appoint'.

20. Rule 128.

Paragraph (iii). Line 1. For "and 85" substitute "85 and 90".

[Note: These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 11), 1937.]

* This Rule came into operation on 31st July, 1937.

DISCIPLINARY REGULATIONS AND ORDERS

21. Page 817.

After the Order made on the 22nd November, 1933, (as promulgated by Amendments No. 9 notified in Army Order 138 of 1934), insert—

Amdt. 18
Sept., 1937

Order made on the 18th February, 1936, by the Army Council and Air Council under Clause 1 of the Conditions set out above.

110
General
5113

Whenever any body of His Majesty's Military Forces and any body of His Majesty's Air Force are acting together within the area of Kenya, Section 184A of the Army Act, except the proviso to Sub-section (1A) of that Section, and Section 184A of the Air Force Act, except the proviso to Sub-section (1A) of that Section, shall apply to and in relation to such bodies and the officers, warrant officers, non-commissioned officers and men who are members thereof.

PART III

22. Page 841.

Delete footnote 1 and substitute—

Amdt. 18
Sept., 1937

1. This period was extended by s. 32(2), T.R.F. Act, 1907, to the first two years' service in the first class of the army reserve. It has been further extended by s. 1 of the Reserve Forces Act, 1937, to the first five years of a man's service in the first class of the army reserve, or to the residue unexpired of the term of his original enlistment, whichever is the less.

110
General
5113

23. Page 863.

Section 32. Sub-section (2). Line 5. *After "years"*
insert a notation symbol "2".

Insert footnote—

Amdt. 18 Sept., 1937	2. See s. 1, Reserve Forces Act, 1937, which extends this period to the first five years of a man's service in the first class of the army reserve, or to the residue unexpired of the term of his original enlistment, whichever is the less.	110 <u>General</u> 6113
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24. Page 867.

Following the Territorial Army and Militia Act, 1921,
insert—

Amdt. 18
Sept., 1937

RESERVE FORCES ACT, 1937.

[1 Edw. 8 & 1 Geo. 6, c. 17.]

An Act to amend section one of the Reserve Forces and Militia Act, 1898, by extending the period of liability to be called out on permanent service thereunder.	110 <u>General</u> 6113
---	-------------------------------

[19th March, 1937.]

1. The liability to be called out under section one of the Reserve Forces and Militia Act, 1898, may, if it is so agreed, extend to the first five years of a man's service in the first class of the army reserve, or to the residue unexpired of the term of his original enlistment, whichever is the less.

Amend-
ment of s. 1
of 61 & 62
Vict. c. 2.

2. This Act may be cited as the Reserve Forces Act, 1937, and the Reserve Forces Acts, 1882 to 1907, and this Act may be cited together as the Reserve Forces Acts, 1882 to 1937.

Short title
and citation

By Command of the Army Council,



THE WAR OFFICE,

30th September 1937

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 19

PART I.

CHAPTER X.

Paragraph 7. Line 4. *After "serjeant" insert—*
(other than those enlisted under Section 77A of
the Army Act)

110
General
5213

Below line 12 insert—

Amdt. 19
July, 1938

All soldiers enlisted for 12 years with the
colours under Section 77A of the Army Act
have the right, at their option, to re-engage to
complete 21 years' service, as provided in that
section.

110
General
5215

*After paragraph 15 (on page 213), insert new
paragraph—*

Amdt. 19
Jul, 1938

15A. A soldier enlisted for 12 years with the
colours under Section 77A of the Army Act, with
such a right of re-engagement as is indicated in
that section, is liable at any time to be transferred
to any corps.

Compulsory
transfer

110
General
5215

Insert new footnote on page 213—

5. A.A. 83 (9).

PART II.—THE ARMY ACT.

Page 421. *Below Section 77 and detail insert—*

Extension of powers as to enlistment of long
service recruits 77A

Page 501. *Below Section 77 and note thereto,
insert new section and note—*

Amdt. 19
July, 1938

77A. A person enlisted under this Act may, if the
term of his original enlistment¹ is twelve years, the
whole of which is to be served in army service², be
enlisted upon the terms that at any time within the
three years immediately preceding the expiration
of the term of his original enlistment he shall,
subject to the veto of the Army Council or other
authority mentioned in regulations made in

Extension
of powers
as to
enlistment
of long
service
recruits.

110
General
5215

1877

1877

1877

1877

1877

pursuance of this Part of this Act and to such other conditions as are specified in such regulations¹, have the right at his option to re-engage under section eighty-four of this Act⁴.

NOTE.

Amdt. 19
July, 1938

1. *Original enlistment.* See note 4 to s.76.
2. *Army service.* See note 2 to s.77.
3. See K.R., 1935, paras. 239-243.
4. As to the liability of a soldier enlisted under this section to be transferred to any corps, see s. 83 (9).

120
General
5215

Section 83.

Below paragraph (8) insert—

Amdt. 19
July, 1938

(9) A soldier of the regular forces enlisted under section seventy-seven A of this Act with such a right of re-engagement as is mentioned in that section shall be liable at any time to be transferred to any corps, whether in the same arm or branch of the service or not, to which the competent military authority⁶ think it desirable to transfer him.

120
General
5215

Section 86.

Add at end of Note—

Amdt. 19
July, 1938

See also s.77A as to the right of a soldier enlisted under that section to re-engage under s.84.

110
General
5215

Section 136.

Number existing section as sub-section "(1)", and insert new sub-section and note—

Amdt. 19
July, 1938

(2)¹ Notwithstanding anything in any law in force as aforesaid in India or Burma¹ no part of the pay of an officer or soldier of the regular forces shall be attached by direction of a court in satisfaction of any decree or order enforceable against him :

120
General
5215

Provided that nothing in this sub-section affects any attachment order made by a court in India or Burma in respect of any liability incurred before the end of the year nineteen hundred and thirty-eight.

NOTE.

Amdt. 19
July, 1938

1. This sub-section, which was added by the A. & A.F. (A) Act, 1938, prevents the attachment, under the Code of Civil Procedure, of any part of the pay of officers serving in India or Burma in satisfaction of civil debts incurred by them.

120
General
5215

Section 180.

Sub-section (2) (as promulgated by Amendments No. 17 notified in Army Order 142 of 1937).

Delete paragraph (g), and insert—

[*Para. (g) repealed by A. & A.F. (A) Act, 1938.*]

120
General
5215

By Command of the Army Council,

H. G. Creedy

THE WAR OFFICE,
31st July, 1938

LONDON

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 20

PART II

THE ARMY ACT

1. Section 29.

Line 4. *After* " court " *insert* a notation symbol " 2A ".

Insert new note—

Amdt. 20
Feb., 1939

2A. See note 3A to R.P. 125A with respect to evidence required in a case of alleged false swearing before a court of inquiry.

110
W
817

2. Section 44. Page 466. Note 15. Line 4. *After* " regards " *insert*—

Amdt. 20
Feb., 1939

long service and good conduct pay (P.W., 1931, article 998a) and

30
Abroad
203

3. Section 115. Note 2. *Delete* from " deputy-assistant " in line 2 to the end of the note and *substitute*—

Amdt. 20
Feb., 1939

field officer of the Quarter-Master-General's staff or of the supplies and transport directorate serving at the headquarters of such general officer commanding.

57
Vehicles
3069

4. Section 138. Page 548. Note 2 (as promulgated by Amendments No. 2 notified in Army Order 120 of 1929). Line 5. *After* " pay " *insert* " , long service and good conduct pay, ".

30
Abroad
203

RULES OF PROCEDURE

5. Rule 125A (as promulgated by Amendments No. 5 notified in Army Order 5 of 1931). Paragraph (G). Line 4. *After* " inquiry " *insert* a notation symbol " 3A ".

Insert new note—

Amdt. 20
Feb., 1939

3A. On a trial under A.A. 29, in respect of evidence given on oath before a court of inquiry, the fact that the accused swore as charged must be proved in the manner described in note 2 to that section. The proceedings of the court of inquiry are not admissible for this purpose and must not be produced in evidence or attached to the court-martial proceedings.

110
W
817

6. Rule 131. *Delete* from "Great Britain" in line 8 to end of the rule and *substitute*—

S.R.O. 29
1939

Amdt. 20
Feb., 1939

the United Kingdom by a field officer of the Quarter-Master-General's staff or of the supplies and transport directorate serving at the headquarters of such general officer commanding-in-chief (or general officer commanding).

37
Vehicle
3049

PART III.—MISCELLANEOUS ENACTMENTS

S.R.O. 1352
1938

7. Page 907. VISITING FORCES (BRITISH COMMONWEALTH) ACT, 1933 (as promulgated by Amendments No. 11 notified in Army Order 154 of 1935).

Amdt. 20
Feb., 1939

In the table of relative ranks appended to the above Act, *under* the heading "Forces raised in the Union of South Africa", the following amendments will be made :—

291
3055

South African Naval Forces—

Line 6. *Insert* "Captain".

Line 7. *Insert* "Commander".

South African Military Forces—

Line 5. *For* "Brigadier-General" *substitute*—

{ Brigadier-General
Colonel-Commandant }

By Command of the Army Council,



THE WAR OFFICE, -

28th February, 1939

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 21

PART I.

1. CHAPTER III.

Para. 63 (as amended by Amendments No. 7 notified in Army Order 96 of 1932). Line 5. *After* "rank" *insert*—

110
General
5341

and an officer sentenced to forfeit service for the purposes of promotion

2. CHAPTER IX.

Page 205. Footnote 3. *For* "the Irish Free State" *substitute* "Eire".

Page 208. Footnote 5. Last two lines. *For* "the Irish Free State" *substitute* "Eire".

3. CHAPTER XI.

Para. 82. Line 7. *For* "the Irish Free State" *substitute* "Eire".

PART II.

4. Page 415. ARMY AND AIR FORCE (ANNUAL) ACT (as amended by Amendments No. 18 notified in Army Order 191 of 1937).

In the heading, and in the last line of the Note on page 415, *for* "1937" *substitute* "1939".

Preamble to Act. Second paragraph. Line 1 of the amendment. *For* "one hundred and sixty-eight thousand nine hundred" *substitute* "one hundred and eighty-five thousand seven hundred".

Page 416.

Line 1. *For* "seventy thousand" *substitute* "one hundred and eighteen thousand".

Line 30. *For* "thirty-seven" *substitute* "thirty-nine".

Section 1. Line 2. *For* "1937" *substitute* "1939".

Section 2.

Paragraph (a).

Line 4. *For "thirty-seven" substitute "thirty-nine".*

Lines 5 and 6. *For "thirty-eight" substitute "forty".*

Paragraph (b).

Line 4. *For "seven" substitute "nine".*

Line 5. *For "thirty-eight" substitute "forty".*

Section 3.

Line 3. *Delete "First".*

Line 6. *For "1937" substitute "1939".*

Delete "FIRST SCHEDULE" and detail thereunder, and insert—

SCHEDULE

PRICES IN RESPECT OF BILLETING

Amdt. 21
June, 1939

Accommodation to be provided	Maximum price
Lodging and attendance for a soldier where meals furnished.	Tenpence a night for the first soldier and eightpence a night for each additional soldier. Eightpence each.
Breakfast as specified in Part I of the Second Schedule to the Army Act.	Eightpence each.
Dinner as so specified... ..	Elevenpence.
Tea as so specified	Threepence.
Supper as so specified... ..	Fivepence.
Where no meals furnished, lodging and attendance, and the means and the necessary utensils for the preparation and cooking of his food.	Tenpence a night for the first soldier and eightpence a night for each additional soldier.
Stable room and ten pounds of oats, twelve pounds of hay, and eight pounds of straw a day for each horse.	Two shillings and threepence a day.
Stable room without forage ...	Sixpence a day.
Lodging and attendance for an officer.	Three shillings a night.

Note.—An officer shall pay for his food.

In the application of this Schedule to the Air Force, references to the Air Force Act and to an airman shall be substituted for references to the Army Act and to a soldier.

THE ARMY ACT

5. SECTION 44.

Page 463. *Delete* proviso (3) and *substitute*—dt. 21
4, 1939

- (3) An officer or a non-commissioned officer when sentenced to forfeiture of seniority of rank and an officer when sentenced to forfeiture of all or any part of his service for the purposes of promotion may also be sentenced to be severely reprimanded or reprimanded :

110
General
5341

Page 465. Note 7. *Delete* the last paragraph and *insert*—mdt. 21
1939

An officer or a N.C.O. when sentenced to forfeiture of seniority of rank and an officer when sentenced to forfeiture of service for the purposes of promotion may also be sentenced to be severely reprimanded or reprimanded ; (proviso (3)).

110
General
5341

6. SECTION 90 (as amended by Amendments No. 18 notified in Army Order 191 of 1937).

Sub-sections (2) and (4). Provisos. Last line of the amendments. *For* "three months" *substitute* "six months", in each case.

Add at end of Note 2B—

In the A. & A.F. (A.) Act, 1939, this period was extended up to a maximum of 6 months so as to give time, in proper cases, for a full course of vocational training to be undergone prior to discharge or transfer to the reserve.

110
General
5341

7. SECTION 108A.

Page 523. *Below* sub-section (3) *insert* new sub-section—Amdt. 21
June, 1939

(3A). A billeting requisition issued under sub-section (2) of this section may also require the provision of billets for such number of vehicles of any class prescribed by regulations made by the Army Council with the consent of the Treasury, being vehicles in use for the purposes of His Majesty's military forces, as may be specified in the requisition, and the provisions of this Act as to billeting shall apply in relation to the billeting of such vehicles as aforesaid under a billeting requisition as they apply in relation to the billeting of horses under such a requisition subject, however, to the following modifications:—

110
General
5341

(a) The occupier^s of any building or land shall be liable to billets ;

(b) The accommodation to be furnished by the occupier of the building or land shall be standing room for the vehicles, and the prices to be paid therefor shall be such as may be fixed in relation to different classes of buildings and land and different classes of vehicles by regulations made by the Army Council with the consent of the Treasury ;

Provided that nothing in this paragraph shall be construed as requiring any payment to be made in respect of vehicles billeted otherwise than in a building unless the vehicles are billeted on land the surface of which has been made up for the passage or parking of vehicles not being land where vehicles are normally allowed to stand free of charge irrespective of the person by whom they are owned or driven;

- (c) The power conferred by paragraph (7) of Part II of the Second Schedule to this Act on the officer demanding billets to allot them among his soldiers and their horses shall extend to vehicles but save as aforesaid the said Part II shall not apply.

110
General
5341

Sub-section (4). Line 1. *For* "so made" *substitute* "made under this section".

110
General
5341

Sub-section (6). Lines 3 and 4. *Delete* "by any officer or soldier billeted under this section to the premises in which he is billeted" and *substitute*—

to any building or land which is occasioned by any billeting therein or thereon under this section

110
General
5341

8. SECTION 109.

Paragraphs (1) (3) and (4). *After* "horse" *insert* a notation figure "1" in each case.

Insert new note—

* The provisions of this section and of the two following sections relating to offences connected with the billeting of horses apply also in the case of vehicles billeted under the provisions of s. 108A (3A).

110
General
5341

9. SECTION 110.

Add at end of Note 1—

See also Note 2 to s. 109.

10. SECTION 111.

Add at end of Note 1—

See also Note 2 to s. 109.

11. Page 578. Paragraph (6). Line 2. *After* "Army in India Reserve of Officers," *insert* "or the Army in Burma Reserve of Officers,".

12. SECTION 175.

Paragraph (9). Line 3. *Before* "when" *insert* "or the Army in Burma reserve of officers".

13. SECTION 180.

Sub-section (2) (as promulgated by Amendments No. 17 notified in Army Order 142 of 1937). *Delete* paragraph (e) and *insert*—

[*Para. (e) repealed by A. & A.F. (A.) Act, 1939.*]

110
General
5341

14. SECTION 190.

Paragraph (23) (as promulgated by Amendments No. 7 notified in Army Order 96 of 1932). Line 5. For "the Irish Free State" *substitute* "Eire".

15. Page 607. SECOND SCHEDULE.

Paragraph (2). *Delete* from "and" in line 5 to the end of the paragraph and *substitute*—

tea and supper on each day, such meals to consist of, or to be substantially equivalent to, the following quantities of food and drink—

(a) for breakfast, five ounces of bread, one ounce of butter, one pint of tea with milk and sugar, four ounces of bacon, one ounce of marmalade;

(b) for hot dinner, ten ounces of meat, three ounces of bread, ten ounces of potatoes, eight ounces of other vegetables, four ounces of pudding;

(c) for tea, four ounces of bread, half an ounce of margarine, one pint of tea with milk and sugar, two ounces of jam;

(d) for supper, three ounces of bread, one pint of tea with milk and sugar, four ounces of meat; and

For paragraph (3) *substitute*—

(3) When a soldier is not so entitled to be furnished with "a meal", shall furnish the soldier with the means and the necessary utensils for the preparation and cooking of his food; and

Delete footnote 1 (as promulgated by Amendments No. 18 notified in Army Order 191 of 1937).

16. Page 608.

At end of paragraph (7) *insert* a notation figure "1".

Insert new footnote—

1. The power conferred on an officer by para. (7) of these regulations extends to vehicles billeted under a billeting requisition. See Army Act, s. 108A (3A) (c).

110
General
5341

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General
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General
5341

By Command of the Army Council,

H. J. Creedy

THE WAR OFFICE,

30th June, 1939

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 22

PART I

CHAPTER VII.

1. *Below para. 67 (page 125) insert new heading and paragraph—*

(viiia) Road Traffic Offences

Amdt. 22
Sept., 1939

67A. It has been noted in para. 50 above that an intent permanently to deprive the owner is an essential element in stealing. In the case of a motor vehicle, the mere taking and driving of it away without the owner's consent or other lawful authority is a statutory offence¹ of which a person charged with the theft of the vehicle, if the charge is laid under s. 41 of the Army Act, may be convicted². It is however provided by the statute³ that, if a court is satisfied that the accused reasonably believed that he had lawful authority or that the owner would have given his consent, the accused is entitled to be acquitted.

Other offences relating to motor vehicles, to be found in the Road Traffic Acts, 1930 and 1934, are, in view of their technical nature and of the special penalties provided for them (endorsement and suspension of licence, which cannot be imposed by a court-martial), more appropriately tried by the civil courts. A list of the more common offences will be found under the heading "Motor vehicle" in the Table of Offences and Punishments at the end of this chapter.

110

General

5374

Amdt. 22
Sept., 1939

2. Page 125. *Re-number* existing footnote 1 (and the corresponding notation figure in line 1 of para. 68) as "4" and *insert* new footnotes—

¹ Road Traffic Act, 1930, s. 28(1). See specimen charge No. 105A on page 733.

² Road Traffic Act, 1930, s. 28(2). See A.A. 56; note 3 on page 484.

³ Road Traffic Act, 1930, s. 28(2).

110

General

5374

3. Page 133. A
thereunder, insert—
Sept., 1939

How Vehicle—

Reckless or dangerous driving
Reckless driving

Driving when under the influence
Driving when disqualified ...
Driving without license ...

Driving without insurance...
Taking without owner's consent

4. Section 1

Paragraph 1
notation system

Below note

Amdt. 22
Sept., 1939 4A. Unless it is
wilfully inflicted
permanent injury
"wilfully injured"
a charge of "wilful

5. Section 1

Note 2.
"military"

6. Section 2

Note 16
"military"

7. Section

Add at

Amdt. 22
Sept., 1939 Stealing m
(provided the
under s. 17 or

8. Section

Note 2
No. 4 not
"except
any mili

9. Section

Note

3. Page 133. *After "Menaces, &c." and detail thereunder, insert—*

Amdt. 22
Sept., 1939

113
General
5374

Motor Vehicle—

Reckless or dangerous driving	Imp. 2 years and/or fine
Careless driving	First offence—fine £20
	Second offence—fine £50
	or Imp. 3 months
Driving when under the influence of drink or drugs	Imp. 6 months and/or fine
Driving when disqualified	Imp. 6 months and/or fine £50
Driving without licence	First offence—fine £20
	Second offence—fine £50
	or Imp. 3 months
Driving without insurance... ..	Imp. 3 months and/or fine £50
Taking without owner's consent	M. Imp. 12 months and/or fine £100

PART II

THE ARMY ACT

4. Section 18.

Paragraph (2). Line 1. *After "maims" insert notation symbol "4A".*

Below note 4 (page 444) insert new note—

Amdt. 22
Sept., 1939

4A. Unless it is clear from the evidence available that an accused wilfully inflicted a bodily hurt which will of necessity create a permanent impairment of future fighting abilities, a charge of "wilfully injuring" under this paragraph must be preferred and not a charge of "wilfully maiming".

110
General
5374

5. Section 19.

Note 2. Line 1. *After "only" insert "military".*

6. Section 44.

Note 16. Line 1. *After "any" insert "military".*

7. Section 56.

Add at end of note 3 on page 484—

Amdt. 22
Sept., 1939

Stealing motor vehicle.....taking without owner's consent (provided the stealing is laid as a civil offence under s. 41 and not under s. 17 or 18).

110
General
5374

8. Section 138.

Note 21. Line 4 (as amended by Amendments No. 4 notified in Army Order 150 of 1930). *Delete "except for drunkenness" and substitute "for any military offence except drunkenness".*

9. Section 145.

Note 4. Line 3. *For the portion in brackets*

10. SPECIMEN CHARGES.

Page 733. Below Specimen Charge No. 105 insert new Specimen Charge—

Amdt. 22
Sept., 1939

No. 105A

110
General
537^a

CHARGE SHEET

The accused, No. , Private ,
Battalion, Regiment, a soldier of the
Regular Forces, is charged with—

Committing a civil offence, that is to say, taking and driving away a motor vehicle without having either the consent of the owner thereof or other lawful authority, contrary to Section 28 of the Road Traffic Act, 1930, Sec. 41,
Army Act:
in that he, at , on , unlawfully
took and drove away a motor vehicle (*specify type, registered number*) the property of A. B., without
having either consent of the said A. B., or other
lawful authority.

By Command of the Army Council,



THE WAR OFFICE,

30th September, 1939

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1939

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 23

ARMY ACT.

1. Page 453. Section 30.

After the word "horse" or "horses" where those words occur in paras. (1), (3), (4), (5) and (7), insert a notation figure "4".

110
General
3488

Insert new note—

Amdt. 23
Jan., 1940

4. The provisions of this section relating to offences connected with the billeting of horses apply also in the case of vehicles billeted under the provisions of section 108A (3A). See Forms of Charges in R.P., Appx. I, on page 711.

Amdt. 23
Jan., 1940

2. Page 532. Section 115. Note 2 (as amended by Amendments No. 20 notified in Army Order 21 of 1939).

110
General
3488

Insert at end—

or by an inspector of Supplementary Transport duly authorized by a general officer commanding-in-chief (or general officer commanding) to sign such requisitions on his behalf.

RULES OF PROCEDURE

3. Page 696. Rule 131 (as amended by Amendments No. 20 notified in Army Order 21 of 1939).

110
General
3453

Insert at end—

Amdt. 23
Jan., 1940

or by an Inspector of Supplementary Transport duly authorized by a general officer commanding-in-chief (or general officer commanding) to sign such requisitions on his behalf.*

S.R.O. 1658
1939

4. Page 711. Section 30.

Para. (1). *Below "horse" insert "vehicle".*

S.R.O. 1658
1939

Para. (2). *Below "horse" insert "vehicle".*

Para. (3).

Below "his horse" insert "his vehicle".

Below "the horse of" insert "the vehicle of".

Para. (4). *Below "horse" insert "vehicle".*

Para. (5). *Below "horses" insert "vehicles".*

Para. (7). *Below "horse" insert "vehicle".*

By Command of the Army Council,

I. J. G. P.

THE WAR OFFICE,

31st January, 1940

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MANUAL OF

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RULE

Page 684-5. F

Para. (D).

Lines 1 and 2.

ment, or detentio

Lines 5 and 6

penal servitude

Delete from "

line 13, and sub

Lines 17 and

Note—These

Procedure (Am

Note 2.

Second para

Delete the f

Am. 24
July, 1940

Where a

after co

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Line 5.

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Page 81

Before

insert:—

Am. 24
July, 1940

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 24

RULES OF PROCEDURE

Page 684-5. Rule 120.

Para. (D).

110
General
5618

Lines 1 and 2. *Delete* " , penal servitude, imprisonment, or detention,".

Lines 5 and 6. *Delete* " a sentence of death or penal servitude " and *substitute* " such sentence ".

Delete from " Provided " in line 8 to " Where " in line 13, and *substitute* " Provided that where ".

Lines 17 and 18. *Delete* " or penal servitude ".

Note—These Rules may be cited as the Rules of Procedure (Amendment) Rules (No. 15), 1940.

Note 2.

Second para.

Delete the first sentence and *substitute*—

Amdt. 24
July, 1940

Where a sentence of death is passed, it must, after confirmation, be referred to the general in chief command in the field and must not be carried into effect pending his decision.

110
General
5618

Line 5. *Delete* " or penal servitude ".

DISCIPLINARY REGULATIONS AND ORDERS

Page 815.

Before the Order made on 7th November, 1919,
insert :—

Amdt. 24
July, 1940

CONDITIONS PRESCRIBED BY THE ARMY COUNCIL AND THE AIR COUNCIL UNDER THE POWERS GRANTED TO THEM BY SECTION 184A OF THE ARMY ACT AND SECTION 184A OF THE AIR FORCE ACT

110
General
5618

Whereas Section 184A of the Army Act and Section 184A of the Air Force Act apply only when such conditions as may be prescribed by regulations made by the Army Council and Air Council are complied with.

Now therefore it is hereby declared that the said sections, except the provisos to sub-section (1A) thereof, shall apply if the following conditions are complied with :—

Where a body of His Majesty's military forces is acting with a body of His Majesty's air force within

the United Kingdom and an order in writing applying the sections while the two bodies are so acting has been made and duly published by the officers in command of each such body:

Provided that—

- (1) any such order may be made jointly by the respective officers in command of military and air force formations, such officers not being below the rank of Major-General or Air Vice Marshal, as the case may be;
- (2) any such order may be limited to a specified period or to a particular situation;
- (3) any such order, when made, shall be communicated as early as possible for the information of the Army Council and the Air Council who shall have power to revoke or vary the provisions of any such order when deemed advisable.

Signed on behalf of the Army Council
this 2nd day of August, 1939.

(Signed) GORT, C.I.G.S.

(Signed) R. GORDON-FINLAYSON, A.G.

(Signed) H. J. CREEDY

Signed on behalf of the Air Council this
29th day of August, 1939.

(Signed) C. L. N. NEWALL, C.A.S.

(Signed) C. PORTAL, A.M.P.

(Signed) E. J. H. LEMON, D.G.P.

By Command of the Army Council,

I J Gort

THE WAR OFFICE,
31st July, 1940

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 25

PART II—ARMY ACT.

1. Page 460. Section 41.

After para. (2) insert new para.—

(2A) If he is convicted of an offence under the Treachery Act, 1940⁷, be liable to suffer death; and ”.

Insert new note—

Amdt. No. 25
Nov., 1940

7. Offences under the Treachery Act, 1940, cannot be committed after the end of the emergency that was the occasion of the passing of the Act. (S. 6 of the Act.)

110
General
5633

2. Page 461. Section 43.

Line 9. *Delete* ” the prescribed general officer or brigadier³” and *substitute* ” such officer, being either a general officer or brigadier or an air officer, as may be prescribed³.”

3. Page 462. Note 3.

Delete ” general officer or brigadier ”.

4. Page 485. Section 57. Sub-section (1) (line 6), and sub-section (2) (line 6).

After ” murder,” *insert* ” or for an offence under the Treachery Act, 1940⁸,”

5. Page 486. *Insert new note—*

Amdt. No. 25
Nov., 1940

9. Offences under the Treachery Act, 1940, cannot be committed after the end of the emergency that was the occasion of the passing of the Act. (S. 6 of the Act.)

110
General
5633

6. Page 495. Section 68. Sub-section (2), sub-para. a. (h).

Line 4. *Delete* ” prescribed officer⁴” and *substitute* ” such officer (whether of the army or air force) as may be prescribed⁴.”

Line 5. *Delete* ” prescribed officer⁴” and *substitute* ” such prescribed officer as aforesaid⁴.”

Lines 8 and 9. *Delete* ” prescribed officer⁴” and *substitute* ” such prescribed officer as aforesaid⁴.”

Note 4. *Delete* ” officer ”.

7. Page 580. Section 176.
Against "176" insert " * ".

Insert footnote—

* Extract from Statutory Rules and Orders
No. 748 of 1940—

Amdt. No. 25
Nov., 1940

"(3) Members of the Local Defence Volunteers shall be members of the armed forces of the Crown and every such member shall, notwithstanding that he may hold any rank or commission in any other of His Majesty's forces, be subject to military law as a soldier, and accordingly the Army Act shall have effect as if after paragraph (8A) of section one hundred and seventy-six thereof there were inserted the following paragraph :—

(8B) All members of the Local Defence Volunteers;" (Members of the Local Defence Volunteers (also known as the Home Guard) can only be enrolled for a period not exceeding the period of the emergency that was the occasion of the passing of the Armed Forces (Conditions of Service) Act, 1939.)

8. Page 594. Section 183. Para. (2) (as promulgated by Amendment No. 7 notified in Army Order 96 of 1932).

Line 6. After "forces" insert "(whether that officer is an officer of the army or air force)".

Line 7. Delete "major-general" and substitute "general officer or air officer, as the case may be,".

Line 10. After "field" insert "(whether that officer is an officer of the army or air force)".

Line 11. After "brigadier" insert "or any air officer".

9. Page 599. Delete Section 187c (as promulgated by Amendment No. 7 notified in Army Order 96 of 1932) and substitute—

Amdt. No. 25
Nov., 1940

Application
of Act to
certain
Dominions.

187c.—(1) Notwithstanding that the Parliament of a Dominion to which this sub-section applies may not have adopted Sections two to four of the Statute of Westminster, 1931, any law of the Dominion, whenever passed, for regulating the government and discipline of the forces of the Dominion, and persons attached to or accompanying those forces, shall (except in so far as a contrary intention is expressed therein or is necessarily to be inferred therefrom) extend to the members of those forces and to those persons without as well as within the Dominion, and the provisions of this Act (other than the provisions of this section) shall not extend or be deemed to extend to that Dominion as part of the law thereof except in so far as the provisions of this Act are applied by a law of the Dominion.

The Dominions to which this sub-section applies are the Commonwealth of Australia and the Dominion of New Zealand.

(2) The provisions of this Act shall apply in relation to, and in relation to forces raised in, Newfoundland as they apply in relation to, and in relation to forces raised in, a colony.

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RULES OF PROCEDURE, 1926.

10. Rule 126. Para. (A).

Line 1. *Delete* "general officer or brigadier" and *substitute* "officer".

Line 4. *After* "brigadier," *insert* "or the air officer".

These Rules may be cited as the Rules of Procedure (Amendment) Rules (No. 16), 1940.

DISCIPLINARY REGULATIONS AND ORDERS.

11. Page 810. *Below* "Secretary" in line 22 *insert*—

Amdt. No. 25
Nov., 1940

CONDITIONS PRESCRIBED BY THE ADMIRALTY AND THE ARMY COUNCIL UNDER THE POWERS GRANTED TO THEM BY SECTION 90A OF THE NAVAL DISCIPLINE ACT AND SECTION 184A OF THE ARMY ACT.

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Whereas Section 90A of the Naval Discipline Act and Section 184A of the Army Act apply only when such conditions as may be prescribed by regulations made by the Admiralty and the Army Council are complied with.

Now therefore it is hereby declared that the said sections shall apply if the following conditions are complied with:—

Where a body of His Majesty's naval forces is acting with a body of His Majesty's military forces and an order in writing applying the sections while the two bodies are so acting has been made and duly published by the officers in command of each such body:

Provided that—

- (1) any such order may be made jointly by the respective officers in command of naval and military formations—
- (a) such officers not being below the rank of rear-admiral or major-general, in respect of forces in the United Kingdom;
- (b) such officers being in chief command, but not below the rank of commander or lieutenant-colonel, in respect of forces elsewhere;
- (2) any such order may be limited to a specified period or to a particular situation;
- (3) in no case shall any naval officer appointed to the command of any ship or ships of the Royal Navy be superseded when afloat by a military officer of superior relative rank and that in no case shall any military or Royal Marine officer appointed to the command of any body

of British or Indian troops be superseded when on land by any naval officer of superior relative rank ;

- (4) Any such order, when made, shall be communicated as early as possible for the information of the Admiralty and the Army Council who shall have power to revoke or vary the provisions of any such order when deemed advisable.

Signed on behalf of the Admiralty this 24th day of June, 1940.

(Sd.) CHARLES LITTLE.

(Sd.) G. S. ARBUTHNOT.

(Sd.) R. H. A. CARTER.

Signed on behalf of the Army Council this 24th day of June, 1940.

(Sd.) R. H. HAINING, V.C.I.G.S.

(Sd.) H. C. B. WEMYSS, A.G.

(Sd.) P. J. GRIGG.

PART III.—MISCELLANEOUS ENACTMENTS AND REGULATIONS.

12. Page 907. Visiting Forces (British Commonwealth) Act, 1933 (as promulgated by Amendment No. 11 notified in Army Order 154 of 1935).

Section 7, sub-section (2), *Add at end—*

Amdt. No. 25
Nov., 1940

NOTE.—This sub-section no longer applies to the Commonwealth of Australia and the Dominion of New Zealand. (*See Army and Air Force (Annual) Act, 1940, section 3 (2).*)

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By Command of the Army Council,

P. J. Grigg

THE WAR OFFICE,
30th November, 1940.

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 26

Rules of Procedure.

Page 666. Rule 78.

Paragraph (B). Line 3. *After " officer " insert*
" or of a staff officer on his behalf ".

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<u>Manuals</u>
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Page 672. Rule 88.

Paragraph (B). Line 3. *Delete " this rule " and*
substitute " these rules ".

Page 681. Rule 106.

Delete paragraph (C) and substitute :—

(C) The officer convening a field general court-martial shall appoint or detail the officers to form the court, and may also appoint or detail such officers as waiting members as he thinks expedient.⁴ The officers should have held commissions for not less than one year,⁵ but, if any officers are available who have held commissions for not less than three years, they should be selected in preference to officers of less service.

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Delete Note 4 and insert new Notes :—

4. The president must be appointed by name. As regards the members and waiting members, the number and ranks and units to which they belong may alone be stated, or they may be mentioned by name.

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<u>Manuals</u>
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5. But, if necessary, an officer of less than one year's standing may legally sit as a member.

Page 682. Rule 110.

Paragraph (A). Line 1. *After " members " insert*
a notation figure " 1 ".

Insert new Note :—

1. Where members or waiting members are detailed by rank and corps and not appointed by name, then only officers of the actual rank and corps stated in the convening order can serve as members. In such cases the ranks, names, etc., of the members of the court, as constituted, will be recorded on the proceedings.

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Page 686. Rule 121.

Line 17. *After " 87 (Defending officer and friend of accused)," insert " 88 (Counsel allowed in certain courts-martial),".*

been made and duly published by the officers in command of each such body :—

Provided that—

- (1) any such order may be made jointly by the respective officers in command of military and air force formations, such officers being in chief command, but not below the rank of Lieutenant-Colonel or Wing-Commander as the case may be ;
- (2) any such order may be limited to a specified period or to a particular situation ;
- (3) any such order, when made, shall be communicated as early as possible for the information of the Army Council and the Air Council who shall have power to revoke or vary the provisions of any such order when deemed advisable.

Signed on behalf of the Army Council this 22nd day of November, 1940.

(Sd.) H. C. B. WEMYSS, A.G.

(Sd.) R. H. HAINING, V.C.I.G.S.

(Sd.) P. J. GRIGG.

Signed on behalf of the Air Council this 11th day of December, 1940.

(Sd.) P. BABINGTON, A.M.P.

(Sd.) W. R. FREEMAN, V.C.A.S.

(Sd.) A. W. STREET.

By Command of the Army Council.



THE WAR OFFICE.

31st January, 1941

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SECOND APPENDIX.

Page 737. Form for Assembly and Proceedings of Field General Court-Martial on Active Service.

Line 14. *Delete* "hereunder named" and *substitute* "appointed or detailed hereunder".

Line 18. *Delete* " * (3. Three officers having more than one year's service) ".

In the margin, opposite the heading "President" *insert* :—

Amdt. 26
Jan., 1941

NOTE.—The president must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, etc., of the members of the court, as constituted, will be recorded on the proceedings.

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Page 739. Under the marginal heading "D. Confirmation", in paragraph and marginal note denoted by asterisk :—

After the word "prison" in both cases, *insert* "or detention barrack".

Marginal note. *Delete* "or imprisonment" and *substitute* "imprisonment or detention".

Page 761 (2) (b). Against "Convening Officer" *insert* *.

Add at end :—

Amdt. 26
Jan., 1941

NOTE.—When under R.P. 78 (B) a staff officer signs 'for' the convening officer, he should record his staff appointment.

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DISCIPLINARY REGULATIONS AND ORDERS.

Page 815. *After* the Order made on 29th August, 1939 (as promulgated by Amendments No. 24 notified in Army Order 120 of 1940), *insert* :—

FURTHER CONDITIONS PRESCRIBED BY THE ARMY COUNCIL AND THE AIR COUNCIL UNDER THE POWERS GRANTED TO THEM BY SECTION 184A OF THE ARMY ACT AND SECTION 184A OF THE AIR FORCE ACT.

Amdt. 26
Jan., 1941

Whereas Section 184A of the Army Act and Section 184A of the Air Force Act apply only when such conditions as may be prescribed by regulations made by the Army Council and Air Council are complied with.

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Now therefore it is hereby declared that the said sections, except the provisos to subsection (1A) thereof, shall apply if the following conditions are complied with :—

Where a body of His Majesty's military forces is acting with a body of His Majesty's air force outside the United Kingdom and an order in writing applying the sections while the two bodies are so acting has

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AMENDMENTS No. 27

PART II—ARMY ACT.

1. Page 460. Section 42.

*Against " 42 " insert *.*

Insert footnote—

*Amdt. 27
March, 1941*

* Extract from Statutory Rules and Orders No. 2003 of 1940 :—

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General
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(3A) Section forty-two of the Army Act shall not apply to an officer serving on a commission in the Local Defence Volunteers * * * * *

2. Page 469. Section 46.

*Against " 46 " insert *.*

Insert footnote—

*Amdt. 27
March, 1941*

* Extract from Statutory Rules and Orders No. 2003 of 1940 :—

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(3A) Section forty-two of the Army Act shall not apply to an officer serving on a commission in the Local Defence Volunteers, and such of the provisions of section forty-six of that Act as empower a commanding officer to deal with a case summarily shall not apply to a commanding officer serving on such a commission as aforesaid.

3. Page 579. Section 175.

*Against " 175 " insert *.*

Insert footnote—

*Amdt. 27
March, 1941*

* Extract from Statutory Rules and Orders No. 748 of 1940 (as amended by Statutory Rules and Orders No. 2003 of 1940) :—

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(3) Members of the Local Defence Volunteers shall be members of the armed forces of the Crown and every such member shall, notwithstanding that he may hold any rank or commission in any other of His Majesty's Forces, be subject to military law

(a) in the case of a member serving on a commission in the Local Defence Volunteers, as an officer in that force ;

* * * * *

and accordingly the Army Act shall have effect as if after

paragraph (7) of section one hundred and seventy-five thereof there were inserted the following paragraph—

(7A) Any person serving on a commission in the Local Defence Volunteers;

(Members of the Local Defence Volunteers (also known as the Home Guard) can only be enrolled for a period not exceeding the period of the emergency that was the occasion of the passing of the Armed Forces (Conditions of Service) Act, 1939.)

4. Page 580. Section 176.

Footnote * (as promulgated by Amendment No. 25 notified in Army Order 202 of 1940).

Delete from "as a soldier" in line 7 to "Volunteers;" in line 11 and substitute—

Amdt. 27
March, 1941

(a) in the case of a member serving on a commission in the Local Defence Volunteers, as an officer in that force; and

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(b) in the case of any other member, as a soldier; and accordingly the Army Act shall have effect . . . as if after paragraph (8A) of section one hundred and seventy-six thereof there were inserted the following paragraph:—

(8B) All members of the Local Defence Volunteers, other than those serving on a commission in that force;

By Command of the Army Council,



THE WAR OFFICE,
31st March, 1941.

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AMENDMENTS No 28

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PART II.—THE ARMY ACT.

1. Section 6 (page 430).

Note 7.—*Delete* from "When" in line 3 to "N.C.O." in line 7 and *substitute* :—

When, however, he is charged with leaving his post it is always necessary to prove that he had been regularly posted, or had undertaken the duty of sentry on that post. Where a member of a guard or body furnishing a sentry for a post receives orders that he will relieve the sentry on that post at a fixed hour and in due course does so, he will have been regularly posted although the N.C.O. in charge was not himself present at that time.

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2. Section 47 (page 472), Subsection (1).

Lines 6 and 7.—*Delete* "any officer (not under the rank of major-general)" and *substitute* "any such officer (not under the rank of major-general) as may be prescribed 2A or as may be".

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Page 473.—*Insert* new note :—

2A. *Prescribed.* See R.P. 126 (AA).

3. Section 54 (1) (page 481).

Para. (d). Lines 12 and 13.—*Delete* "general or field officer" and *substitute* "officer, not being below the rank of field officer, flag officer or squadron leader".

Add at end of para. (d) " , whether such officer is an officer of the army, navy or air force."

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They shall, if they fall into the hands of the enemy, be entitled to the protection, and be subject to the provisions of the International Convention for the

4. Section 108A (page 523).

Subsection (3). *Add at end of para. (b) :—*

Provided that a chief officer of police may, to such extent and subject to such restrictions as he thinks proper, authorise any individual constable, or any class of constables, to exercise and perform on his behalf all or any of the said powers and duties.

Note 5 (page 524). Line 2.—*Delete "the police" and substitute "police or constable authorised by him"*.

5. Section 190 (page 601).

Delete para. (5) and substitute :—

(5) The expression "non-commissioned officer" means a non-commissioned officer or acting non-commissioned officer of His Majesty's forces, or any arm, branch, or part thereof, and includes also any non-commissioned officer or acting non-commissioned officer of His Majesty's air forces or of a Dominion force who is for the time being subject to military law.

Insert new para.

(5A) The expression "warrant officer" includes any warrant officer of His Majesty's air forces or of a Dominion force who is for the time being subject to military law ^{2A}.

Page 605.

Note 2A (as promulgated by Amendments No. 8 notified in Army Orders for October, 1933).

Line 1.—*Delete "however,"*.

Note 3.—*Delete from "but" in line 3 to end of note and insert " (See, however, S.182.) "*.

RULES OF PROCEDURE.

6. Rule 120 (pages 684-5).

Delete para. (D) and substitute :—

(D) In any case where a sentence of death or penal servitude is passed, the proceedings shall be reserved for confirmation by the officer, not being below the rank of field officer, flag officer or squadron leader, commanding the force with which the person under sentence is present at the date of his sentence, according to whether such officer be an officer of the army, navy or air force :

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Provided that :—

- (i) Where a sentence of death is passed, the confirming authority shall after confirmation forthwith transmit the proceedings to the officer in chief command of the forces in the field comprising the force with which the accused is present, and such sentence shall not be carried into effect pending the decision of that officer on the case ;
- (ii) If there be no such officer in chief command of the forces in the field, or if the confirming officer is of opinion that, by reason of the nature of the country, the great distance, or the operations of the enemy, it is not practicable to delay the case for the purpose of referring it to the officer in chief command in the field, a sentence of death may be carried into effect if confirmed by the aforementioned officer commanding the force with which the person under sentence is present at the date of his sentence.

Page 685. Note 2.—*Delete* second para. (as amended by Amendments No. 24 notified in Army Orders for July, 1940) and *substitute* :—

Where a sentence of death or penal servitude is passed, however, it must be reserved for confirmation by the officer commanding the force with which the accused is present, as provided in para. (D). Where a sentence of death is passed, and there is an officer in chief command of the forces in the field comprising the force with which the accused is present, the sentence must after confirmation be referred to that officer and must not be carried into effect pending his decision. But if communication with that officer is impracticable or so difficult as to cause too great delay, a sentence of death may be carried into effect if confirmed by the officer commanding the force with which the accused is present.

7. Rule 126 (page 689).

After para. (A) *insert* new para. :—

(AA) The prescribed officer for the purpose of subsection (1) of Section 47 of the Army Act means any officer (not under the rank of major-general) in command of a district, corps, division or area in the United Kingdom.

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They shall, if they fall into the hands of the enemy, be entitled to the protection, and be subject to the provisions of the Army Act, 1907, relating to the treatment of prisoners of war.

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Para. (B) (as amended by Amendments No. 18 notified in Army Orders for September, 1937).
Line 7.—After "district," insert "the corps,".

[Note.—These Rules may be cited as the Rules of Procedure (Amendment) Rules (No. 18), 1941, and shall come into operation as from 30th April, 1941.]

By Command of the Army Council.

A. J. G. G. G.

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THE WAR OFFICE.

31st May, 1941.

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 29

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1. Chapter XIV (as promulgated by Amendments No. 12, notified in Army Order 5 of 1936).

Page 35 of Amendment. *Delete footnote 6 and substitute—*

S.R.O. 1652
1941

Amdt. 29
Oct. 1941
6. *Kriegsbrauch*, 1902 (p. 24) thinks that the use of the enemy's uniform and flag is entirely forbidden by the Hague rules.

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Manuals
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Deutsches Kriegsführungsrecht, 1940 (p. 103) "Laws and usages of land warfare": Article 23. The following are forbidden:—

(f) The misuse of . . . military emblems or enemy uniforms as well as the special emblem of the Geneva Convention (*i.e.*, worn by personnel covered by the Geneva Convention). (Translation.)

The French Manual, 1893 (p. 19) states that the actual practice tolerates their use as described in the text.

2. Page 810. *After* the Order made on 7th July, 1930 (as promulgated by Amendments No. 5 notified in Army Order 5 of 1931), *insert—*

Order made on 14th May, 1941, by the Admiralty and the Army Council under Clause 1 of the Conditions set out above.

Amdt. 29
Oct. 1941
Army Order
99 of 1941
Whenever members of His Majesty's naval forces are patients in or are serving on the staff of any hospital, hospital ship or convalescent establishment the staff of which consists wholly or partly of members of His Majesty's military forces, and whenever members of His Majesty's military forces are patients in or are serving on the staff of any hospital, hospital ship or convalescent establishment the staff of which consists wholly or partly of members of His Majesty's naval forces, Section 90A of the Naval Discipline Act and Section 184A of the Army Act shall apply to and in relation to all such members as aforesaid.

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They shall, if they fall into the hands of the enemy, be entitled to the protection, and be subject to the provisions of the International Convention for the

Order made on 31st July, 1941, by the Admiralty and the Army Council under Clause 1 of the Conditions set out above.

Army Order
164 of 1941

Whenever members of His Majesty's naval forces and members of His Majesty's military forces are acting together in any defensively armed Merchant Ship, or are acting together as a result of their being detailed for duty in any such ship, Section 90A of the Naval Discipline Act and Section 184A of the Army Act shall apply to and in relation to all such members as aforesaid.

3. Pages 811-813. *Delete all Directions given by the Air Council and the Army Council, and substitute—*

Directions given on 1st September, 1941, by the Army Council with the concurrence of the Air Council pursuant to the Regulations dated 12th June, 1918, made by the Army Council and Air Council under the powers granted to them by Section 179A (1) of the Army Act and Section 179A (1) of the Air Force Act.

Amdt. 29
Oct. 1941

The following officers and soldiers of the regular forces shall be temporarily attached to the regular air force :—

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Manuals
2748

Army Order
167 of 1941

- (1) Any officer or soldier of the regular forces who is ordered to serve with the regular air force by the officer commanding a unit or formation of the regular forces with the assent of the officer commanding the unit or formation of the regular air force with which he is to serve; but where any such order is issued on the authority of the officer commanding a unit of the regular forces, the officer issuing the order and the officer who assents thereto shall communicate the fact for the information of their immediate superior officers. An officer or soldier attached to the regular air force in pursuance of this clause shall continue to be so attached for so long as may be prescribed by the order by which he was attached, or until such time as an order revoking such attachment is made by the officer commanding the air force unit or

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formation with which he is for the time being serving with the assent of the officer commanding the military unit or formation concerned, or until such time as an order revoking such attachment is made by superior air force authority with the assent of superior military authority.

- (2) Every officer and soldier of the regular forces who is a patient in an air force hospital or convalescent establishment shall be temporarily attached to the air force from the time of admission until discharged.
- (3) Every officer of the regular forces who is ordered in writing to do duty for a period in an air force transport or freightship (men) shall be temporarily attached to the regular air force during the period specified in such order.
- (4) Every soldier of the regular forces who may for the time being be on board any vessel employed as an air force transport or freightship (men) shall, during such time as there may not be on board the same vessel an officer of the regular forces or an officer of the regular air force attached to the regular forces, be temporarily attached to the regular air force while on board.

Directions given on 1st September, 1941, by the Air Council with the concurrence of the Army Council pursuant to the Regulations dated 12th June, 1918, made by the Army Council and Air Council under the powers granted to them by Section 179A (1) of the Army Act and Section 179A (1) of the Air Force Act.

The following officers and airmen of the regular air force shall be temporarily attached to the regular forces, namely :—

- (1) Any officer or airman of the regular air force who is ordered to serve with the regular forces by the officer commanding a unit or formation of the regular air force with the assent of the officer commanding the

They shall, if they fall into the hands of the enemy be entitled to the protection, and be subject to the

unit or formation of the regular forces with which he is to serve ; but where any such order is issued on the authority of the officer commanding a unit of the regular air force, the officer issuing the order and the officer who assents thereto shall communicate the fact for the information of their immediate superior officers. An officer or airman attached to the regular forces in pursuance of this clause shall continue to be so attached for so long as may be prescribed by the order by which he was attached, or until such time as an order revoking such attachment is made by the officer commanding the military unit or formation with which he is for the time being serving with the assent of the officer commanding the air force unit or formation concerned, or until such time as an order revoking such attachment is made by superior military authority with the assent of superior air force authority.

- (2) Every officer and airman of the regular air force who is a patient in a military hospital or convalescent establishment shall be temporarily attached to the regular forces from the time of admission until discharged.
- (3) Every officer of the regular air force who is ordered in writing to do duty for a period in a military transport or troop freightship shall be temporarily attached to the regular forces during the period specified in such order.
- (4) Every airman of the regular air force who may for the time being be on board any vessel employed as a military transport or troopship shall be temporarily attached to the regular forces while on board, and during such time only as there may not be on board the same vessel an officer of the regular air force or a naval or military officer attached to the regular air force (other than an officer holding only an honorary commission).

NOTE.—By virtue of the provisions of section 178 of the Army Act and the corresponding section of the Air Force Act, references to "regular forces" and to "regular air force" in section 179A of the Army Act and in section 179A of the Air Force Act, and in the "Conditions" prescribed and in the "Directions" given by the Army Council and Air Council under those sections, include references to the "Territorial Army" and to the "Auxiliary Air Force", respectively, whenever those forces are embodied, or while personnel belonging to such forces are otherwise subject to military law or to the Air Force Act, as the case may be. References to officers of the regular forces and to officers of the regular air force also include references to reserve and retired officers of both Services whilst subject to military law or to the Air Force Act, as the case may be.

4. Page 817. After the Order made on 18th February, 1936 (as promulgated by Amendments No. 18 notified in Army Order 191 of 1937), insert—

Order made on 21st April, 1941, by the Army Council and Air Council under Clause 1 of the Conditions set out above.

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my Order
of 1941

Whenever any body of His Majesty's military forces and any body of His Majesty's air force are acting together within the United Kingdom, Section 184A of the Army Act, except the proviso to Subsection (1A) of that Section, and Section 184A of the Air Force Act, except the proviso to Subsection (1A) of that Section, shall apply to and in relation to such bodies and the officers, warrant officers, non-commissioned officers and men who are members thereof.

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Manuals
2748

By Command of the Army Council,

I. J. G. G. G.

WAR OFFICE,

31st October, 1941

LONDON

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They shall, if they fall into the hands of the enemy, be entitled to the protection, and be subject to the provisions of the Convention for the Protection of Civilian Persons in the Hands of the Enemy.

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 30

PART I.

1. CHAPTER III. Page 20. Para. 24.

Lines 2 and 3. *Delete* “, on the other hand,”.

Line 4. *Delete* “ of actual desertion or ”.

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2. CHAPTER IV.

Page 36. Para. 24.

Line 13. *Delete* “ field officer ” and *substitute* “ lieutenant-colonel ”.

Page 39. Para. 34.

Line 4. *After* “ detention ” *insert* “ (including detention in a Borstal institution) ”

Page 41. Para. 39.

Line 1. *Delete* “ field officer ” and *substitute* “ lieutenant-colonel ”.

Line 7. *Delete* “ and severe reprimand or reprimand.” and *substitute* :—

“, severe reprimand or reprimand, or a deduction authorised by the Army Act to be made from ordinary pay.”

3. CHAPTER V. Page 45. Line 1. *Delete* “ below field rank ”.

4. CHAPTER VI. Page 71.

Para. 8. Line 13. Against “ offence,” *delete* “ 2.”
Delete footnote 2.

5. CHAPTER XIV (as promulgated by Amendments No. 12 notified in Army Order 5 of 1936).

Page 16 of amendments.

Delete para. 58a and *substitute* :—

58a. The following shall not be treated as prisoners of war :—

(a) Chaplains attached to armies so long as they confine themselves to their spiritual duties :

(b) Members of the medical personnel.²

They shall, if they fall into the hands of the enemy, be entitled to the protection, and be subject to the provisions of the International Convention for the

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Persons who
cannot be
treated as
prisoners.

Amdt. 30
June, 1942

Amelioration of the Condition of the Wounded and Sick in the Armies in the Field, but nevertheless shall, while the military situation requires their detention in enemy hands, be subject to the disciplinary code of the detaining power.³

Delete footnotes 2 and 3 and substitute :—

Amdt. 30
June, 1942

"2. Red Cross Convention, art. 9; and see para. 183, *et seq.*

110
Gen.
5633

3. All breaches of discipline, whether committed by protected personnel or otherwise, shall be dealt with either summarily or before a military court in accordance with the procedure laid down in the Regulations for the Maintenance of Discipline among Prisoners of War dated 6th September, 1939."

Page 23 of Amendments. Footnote 3. *Delete* from "Note" in line 1 to "officer." in line 6.

Page 37 of Amendments. Para. 166. Line 2. *Delete* "invaded or".

Page 40 of Amendments.

Para. 183. Line 7. *Delete* "held" and *substitute* "treated".

Footnote 3. *Add* at end—"But see para. 58a and note thereto."

PART II.—THE ARMY ACT.

6. Section 12.

NOTE 1. Page 438. Line 12. *Delete* "of desertion, or".

Amdt. 30
June, 1942

7. Section 40. Page 459.

Delete lines 1 and 2, and *substitute* :—

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5633

"Neglect" to be punishable under this section must be blameworthy. If neglect is wilful, i.e. intentional, it is clearly blameworthy. If it is caused by an honest error of judgment and involves no lack of zeal and no element of carelessness or intentional failure to take the proper action it is equally clear that it is blameless and cannot be a ground for conviction. Where it is not thus completely blameless the degree of blameworthiness naturally varies, and a court trying such a case must consider the whole circumstances of the case and in particular the responsibility of the accused. For example, a high degree of care can rightly be demanded of an officer or soldier who is in charge of an armoured vehicle or an aircraft or is responsible for its condition, or who is handling explosives or highly inflammable material, where a slight degree of negligence may involve danger to life; in such circumstances a small degree of negligence may be so blameworthy as to justify conviction and punishment. On the other hand, such a slight degree of negligence resulting from forgetfulness or inadvertence, in relation to a matter that does not rightly demand a very high degree of care, would not be judged so blameworthy as to justify conviction and punishment. The essential thing for the court to consider is whether in the whole circumstances of the case as they existed at the time of the offence the degree of neglect proved is such as, having regard to the evidence and their military knowledge as to the amount of care that ought to have been exercised, renders the neglect so substantially blameworthy as to be deserving of punishment.

8. Section 46. Page 469. Subsection (1).

Line 8. *Delete* "field officer" and *substitute* "lieutenant-colonel".

Line 9. *Delete* "by a general officer or brigadier".

9. Section 47.

Page 472. Subsection (1). Line 3. *Delete* "field officer" and *substitute* "lieutenant-colonel".

Add at end of subsection (1)—

Amdt. 30
June, 1942

Provided that no charge against a field officer shall be dealt with summarily under this section except by a general or air officer authorised to convene a general court-martial.

110

Gen.

5633

Subsection (2). Page 473. *Below* line 8 *insert* :—

(c) Any deduction authorised by this Act 5A to be made from his ordinary pay ;.

Page 473. Subsection (5). Line 4. *Delete* "by a general officer or brigadier".

NOTE 1. Line 1. *Delete* "a junior" and *substitute* "an".

Page 474. *Insert* new note :—

5A. *Any deduction authorised by this Act.* See S.137 (2).

10. Section 56. Page 484. Subsection (4). Line 2. *Delete* "of desertion or".

Amdt. 30
June, 1942

11. Section 70. Page 496. Subsection (1). *Below* para. (e) *insert* :—

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(ee) The substitution by His Majesty or the Army Council of a new finding for any finding of guilty by a court-martial which is invalid or cannot be supported by the evidence, if the new finding could have been validly made by the court-martial on the charge and if it appears that the court-martial must have been satisfied of the facts establishing the offence specified or involved in the new finding, and the imposition of a sentence for the said offence, not being a sentence of greater severity than the sentence imposed by the court-martial ;

Page 497. *Add* new subsection :—

(7) For the purposes of this Act, any finding or sentence substituted in accordance with rules made in pursuance of this section for the finding or sentence of a court-martial, and any sentence imposed for an offence specified or involved in any such substituted finding, shall have effect as if it were a finding or sentence of a court-martial.

12. Page 546. Section 137. Para. (2). Line 5.
After "offence" insert :—

" or by the authority dealing summarily with the charge under section forty-seven of this Act".

NOTE. 4. Add at end :—

Amdt. 30
June, 1942

In the case, however, of the continuing wrongful act of improperly using War Department property, e.g., a motor vehicle, any loss or damage happening to such property during the continuance of such user may be held to be occasioned thereby.

110
Gen.
5633

13. Page 547. Section 138. Para. (1). Line 6.
After " ship," insert " for every day of detention in a Borstal institution awarded by a civil court,".

14. Section 179A.

Page 589. Note. Delete from " (being " in line 22 to " pose) " in line 24 and substitute :—

" (on submission by the Secretary of State for War after consultation with the Air Council) ".

RULES OF PROCEDURE, 1926.

15. Page 612. Below " 53 " insert :—

53A. Substitution of new or special finding.

16. Rule 44. Page 648. Add new para. :—

Amdt. 30
June, 1942

(H) In any case where a court is empowered by Section 56 of the Army Act to find the accused guilty of an offence other than that charged, or guilty of committing an offence in circumstances involving a less degree of punishment, or where they could after hearing the evidence have made a special finding of guilty subject to exceptions or variations in accordance with paragraphs (D) and (E) of this rule, they may, if they are satisfied of the justice of such course, and if the concurrence of the convening officer is signified by the prosecutor, accept and record a plea of guilty of such other offence, or of the offence as having been committed in circumstances involving such less degree of punishment, or of the offence charged subject to such exceptions or variations.

110
Gen.
5987
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1942

17. Page 654. Insert new Rule :—

Substitution
of new or
special find-
ing.

Amdt. 30
June, 1942

53A. Where a person subject to military law has been found guilty of an offence by a court-martial and the finding having been confirmed is held to be invalid or not to be supported by the evidence and the court-martial could on the charge have found the accused guilty of some other offence, or of the same

110
Gen.
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offence under circumstances involving a less degree of punishment, under the provisions of Section 56 of the Army Act, or have made a special finding under Rule 44 (D), an authority mentioned in Section 70 (1) (ee) of the Army Act may substitute for the finding of the court-martial a finding of guilty of such other offence or of the same offence under circumstances involving a less degree of punishment or such special finding, if it appears to such authority that the court-martial must have been satisfied of the facts establishing the offence specified or involved in the substituted finding, and may impose such sentence in substitution for the sentence passed at the trial as may be warranted in law for the offence specified or involved in the substituted finding, not being a sentence of greater severity than that imposed by the court-martial.

18. Page 656. Rule 56. *Delete* lines 1 to 6 and *substitute* :—

Amdt. 30
June, 1942

56. Whenever it appears that a court-martial had jurisdiction to try a person and make a finding and that there is legal evidence or a plea of guilty to justify such finding, such finding and any sentence which the court-martial had jurisdiction to pass thereon may be confirmed,

110

Gen.

5987

19. Page 686. Rule 121. Line 11. Before " 54 " *insert* :—

" 53A (Substitution of new or special finding),".

20. Page 689. Rule 126. *Delete* para. (A) and *substitute* :—

Amdt. 30
June, 1942

(A) The officer to whom a complaint may be made in pursuance of Section 43 of the Army Act shall, as respects a soldier serving elsewhere than in India, be the general officer commanding-in-chief the command or the general officer or brigadier or the air officer in chief command of the independent command in which the soldier may for the time being be; or the officer authorised to convene a general court-martial not being below the rank of brigadier or air commodore under whose command the soldier is serving.

110

Gen.

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NOTE—The above Rules may be cited as the Rules of Procedure (Amendment) Rules (No. 19), 1942.

DISCIPLINARY REGULATIONS AND ORDERS.

21. Page 813. *After* the Directions given on 1st September, 1941 (as promulgated by Amendments No. 29 notified in Army Order 183 of 1941), *insert* :—

Directions given on 2nd December, 1941, by the Air Council with the concurrence of the Army Council pursuant to the Regulations dated 12th June, 1918, made by the Army Council and Air Council under the powers granted to them by Section 179A (1) of the Army Act and Section 179A (1) of the Air Force Act.

Amdt. 30
June, 1942

Every officer and airman of the regular air force who is for the time being serving in a transit camp administered by the military authorities shall be temporarily attached to the regular forces from the time of his reception into the transit camp until the time of his departure therefrom.

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Directions given on 15th April, 1942, by the Army Council with the concurrence of the Air Council pursuant to the Regulations dated 12th June, 1918, made by the Army Council and the Air Council under the powers granted to them by Section 179A (1) of the Army Act and Section 179A (1) of the Air Force Act.

Amdt. 30
June, 1942

Every officer and soldier of the regular forces who is for the time being serving in a transit camp or staging post administered by the air force authorities shall be temporarily attached to the regular air force from the time of his reception into the transit camp or staging post until the time of his departure therefrom.

110
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22. Page 817. *After* the Order made on 21st April, 1941 (as promulgated by Amendments No. 29 notified in Army Order 183 of 1941), *insert* :—

Order made on 26th January, 1942, by the Army Council and Air Council under Clause 1 of the Conditions set out above.

Amdt. 30
June, 1942

Whenever members of His Majesty's military forces and members of His Majesty's air force are acting together in any defensively armed Merchant Ship or are acting together as a result of their being detailed for duty in any such ship, section 184A of the Army Act, except the proviso to subsection (1A) thereof, and section 184A of the Air Force Act, except the proviso to subsection (1A) thereof, shall apply to and in relation to all such members as aforesaid.

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MANUAL OF MILITARY LAW, 1929

AMENDMENTS No. 32

1. Chapter XIV (as promulgated by Amendments No. 12 notified in Army Order 5 of 1936).

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Page 86 of Amendment. Para. 460. Line 1.

For " may be be " substitute " may not be ".

RULES OF PROCEDURE, 1926.

2. Rule 106 (page 680). *Delete* paragraph (A) and *substitute* :—

Amdt. No. 32
Mar., 1943

106.—(A). Subject to the provisions of Rule 107 (A), the court must consist of not less than three officers¹, including the president.

110

Gen.

5633

3. Rule 107 (page 681). Paragraph (A). Line 5. *Delete* "two will be appointed" and *substitute* "the court will consist of two officers, including the president".

4. Rule 126 (page 689). Paragraph (AA) (promulgated by Amendments No. 28 notified in Army Order 77 of 1941). Line 4.

After " area " *insert* " or of an anti-aircraft group ".

Paragraph (B) (as amended by Amendments No. 28 notified in Army Order 77 of 1941). Line 7. *After* " the corps," *insert* " the anti-aircraft group,".

5. Rule 134A (page 697) (promulgated by Amendments No. 16 notified in Army Order 51 of 1937). Lines 6 and 7. *Delete* " of an officer or soldier belonging to His Majesty's Indian forces " and *substitute* " of a person subject to military law under that Act ".

NOTE 1. Lines 5 and 6. *Delete* " belonging to His Majesty's Indian forces who are subject to military law " and *substitute* " subject to military law under that Act ".

[These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 20), 1942.]

6. 3. Page 810. *After the Order made on 31st July, 1941 (as promulgated by Amendments No. 29 notified in Army Order 183 of 1941), insert :—*

Order made on 10th July, 1942, by the Admiralty and the Army Council under Clause 1 of the Conditions set out above.

Army Order
193 of 1942

Whenever any body of His Majesty's Naval Forces and any body of His Majesty's Military Forces are acting together for the defence of aerodromes or naval establishments ashore, Section 90A of the Naval Discipline Act and Section 184A of the Army Act shall apply to and in relation to such bodies and the officers, warrant officers, petty officers, non-commissioned officers and men who are members thereof.

By Command of the Army Council,

L. Dismore.

THE WAR OFFICE,
31st March, 1943

LONDON

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MANUAL OF MILITARY LAW, 1929.

AMENDMENTS No. 33

PART I.

1. Chapter III.

Page 24. Para. 42. Line 7. *Before " Drunkenness " insert:—*

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

Drunkenness will be regarded as having the ordinary meaning attached to it in civil life, and the fact that an offender is capable or incapable of performing his duty is not a decisive or exclusive test of drunkenness or sobriety.

Page 25. Para. 45. *Delete the first two sentences and substitute:—"The fact that the offender was on duty at the time necessarily aggravates the offence of drunkenness."*

Page 28. Para. 59. *Add at end:—"S. 39A deals with special offences in relation to aircraft 1A."*

Insert footnote:—

"1A. See specimen charges Nos. 84A to 84M, p. 730."

PART II.—THE ARMY ACT.

2. Arrangement of Sections.

Page 419. *Below Section 39 insert:—*

"Damage to aircraft, flying offences, &c. . . . 39A"

Page 424. *Below Section 176 insert:—*

"Application of Army Act to women's forces . . . 176A"

3. Page 458. *After Section 39 and note thereto insert new section and note:—*

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

39A.¹—(1) Every person subject to military law who commits any of the following offences, that is to say,

(a) wilfully or by wilful neglect or negligently² damages, destroys, or loses any of His Majesty's aircraft or aircraft material³; or

(b) is guilty of any act or neglect likely to cause such damage, destruction, or loss; or

(c) is guilty of any act or neglect (whether wilful or otherwise)² which causes damage to or destruction of any public property by fire; or

(d) without lawful authority disposes of any of His Majesty's aircraft or aircraft material³; or

(e) is guilty of any act or neglect in flying, or in the use of any⁴ aircraft, or in relation to any⁴ aircraft or aircraft material³, which causes or is likely to cause loss of life or bodily injury to any person; or

age to air-
aft, flying
offences, &c.

- (f) during a state of war wilfully and without proper occasion or negligently causes the sequestration by or under the authority of a neutral state or the destruction in a neutral state of any of His Majesty's aircraft³,

shall, on conviction by court-martial, be liable, if he has acted wilfully or with wilful neglect, to suffer penal servitude, or such less punishment as is in this Act mentioned, and in any case to suffer imprisonment, or such less punishment as is in this Act mentioned.

(2) Every person subject to military law who commits any of the following offences, that is to say,—

- (a) signs any certificate in relation to an aircraft or aircraft material³ without ensuring the accuracy thereof; or
- (b) being the pilot of one of His Majesty's aircraft, flies it at a height less than such height as may be prescribed by any regulation issued under the authority of the Army Council or the Air Council, except—
 - (i) while taking off or alighting; or
 - (ii) in such other circumstances as may be so prescribed; or
- (c) being the pilot of one of His Majesty's aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

(3) The following provisions shall have effect as respects powers of command in aircraft:—

- (a) every person subject to military law, whatever his rank, shall, while he is in an aircraft, be under the command, as respects all matters relating to the flying or handling of the aircraft or affecting the safety thereof, of the captain of the aircraft, whether the latter is subject to military law or not;
- (b) if the aircraft is a glider aircraft and is being towed by another aircraft, the captain of the glider aircraft, being a person subject to military law, shall, so long as his aircraft is being towed, be under the command (as respects all the matters aforesaid) of the captain of the towing aircraft, whether the latter is subject to military law or not;
- (c) any person subject to military law who disobeys any lawful command given as respects any of the matters aforesaid by a person under whose command he is placed by virtue of this sub-section shall, on conviction by court-martial, be liable to suffer penal servitude or such less punishment as is in this Act mentioned.

NOTE. 

1. This section, which deals with special offences in relation to aircraft, was added by the Army and Air Force (Annual) Act, 1943.

2. A distinction is here drawn between neglect which is wilful and neglect which is not. If neglect is wilful, *i.e.*, deliberate, it is clearly blameworthy. If it is not wilful, it may or may not be blameworthy, and the court must consider the whole circumstances of the case and in particular the responsibility of the accused. See third para. of note to S.40 which applies equally to "neglect" under this section.

3. For definition of "aircraft" and "aircraft material" *see* s. 190 (42) (43).

4. Subs. (1)(e) is not limited to His Majesty's "aircraft or aircraft material."

4. Page 460. Section 42.

Delete the footnote promulgated by Amendment No. 27 notified in Army Order 41 of 1941, and *substitute* :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* Under the provisions of paragraph (3A) of Regulation 2 of the Defence (Home Guard) Regulations, 1940 (S.R. & O. 1940, No. 748, as amended by S.R. & O. 1940, No. 2003 and S.R. & O. 1942, No. 91), section forty-two of the Army Act shall not apply to an officer serving on a Commission in the Home Guard.

5. Page 467. Section 45.

Insert an asterisk at end of para. (3).

Insert footnote :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* Under the provisions of paragraph (1) of Regulation 9 of the Defence (Armed Forces) Regulations, 1939 (S.R. & O. 1941, No. 1598), this paragraph (3), during the continuance in force of the said Regulation 9, has effect in relation to an officer who is a provost marshal as if for the words "an officer of inferior rank" there were substituted the words "any officer," and as if the words "and an officer may order into military custody any officer (though he be of higher rank) engaged in a quarrel, fray, or disorder" were omitted.

6. Page 469. Section 46.

Delete the footnote promulgated by Amendment No. 27 notified in Army Order 41 of 1941, and *substitute* :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* Such of the provisions of section forty-six as empower a commanding officer to deal with a case summarily do not apply to a commanding officer serving on a Commission in the Home Guard except during any period during which a platoon or other part of the Home Guard to which the person to be dealt with belongs is mustered for the purpose of resisting an actual or apprehended invasion (S.R. & O. 1940, No. 748, as amended by S.R. & O. 1940, No. 2003 and S.R. & O. 1942, No. 91).

7. Page 472. Section 47. Subsection (1). *Delete* the proviso added by Amendments No. 30 notified in Army Order 95 of 1942 and *substitute* :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

Provided that—

(a) in such cases or classes of cases and subject to such restrictions as the Army Council may direct, the powers exercisable under this section by a major-general appointed for the purpose may be exercised by a brigadier appointed in like manner ;

(b) no charge against a field officer shall be dealt with summarily under this section except by a general or air officer authorised to convene a general court-martial or an officer not under the rank of lieutenant-

8. Page 504. Section 80.

Insert an asterisk at the end of subsections (4) and (5).

Insert footnote:—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* Under the provisions of Regulation 2 of the Defence (Armed Forces) Regulations, 1939 (S.R. & O. 1940, No. 1015) an alien may be enlisted in His Majesty's forces without taking the oath of allegiance, and, accordingly, during the continuance in force of the said Regulation 2, Section 80 of the Army Act has effect in relation to aliens as if in paragraph (a) of subsection (4) the words "and shall then administer to him the oath of allegiance contained in the said paper" were omitted, as if in paragraph (b) of that subsection the words "and taking the oath" were omitted, and as if in subsection (5) the words "and takes the oath" were omitted.

9. Page 514. Section 95.

Against "95" insert *.

Insert footnote:—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* Under the provisions of Regulation 2 of the Defence (Armed Forces) Regulations, 1939 (S.R. & O. 1939, No. 1304) (a) an alien may hold a commission or may be entered or enlisted in any of His Majesty's forces as if he were a British subject; and (b) there shall be no limit to the number of aliens who may serve together at any one time in any corps or unit. Section 95 of the Army Act, therefore, has effect subject to the foregoing provisions (a) and (b) during the continuance in force of the said Regulation 2.

10. Page 544. Section 132.

Subsection (2). *Add* at end of para. (d):—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

"and (e) for the temporary release, in such cases, for such periods and subject to such conditions as may be prescribed by the rules, of such prisoners or soldiers:—"

After subsection (2) *insert* new subsection:—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

(2A) Where any person has been temporarily released from a military prison or detention barrack in accordance with rules made under this section, the currency of any sentence which he may be serving shall be suspended for a period beginning with and including the day after that on which he was released and ending with and including the day on which he returns to the prison or detention barrack or is otherwise taken into custody under this subsection, and, if any such person fails to comply with any of the conditions subject to which he was released or to return at the expiration of the period for which he was released, he may be arrested without warrant by any constable or taken into military custody, and may be kept in custody, whether civil or military, until he is taken back to the prison or detention barrack, and, unless proceedings are taken against him for an offence under section twelve or section fifteen of this Act, he shall be liable to such punishment as may be prescribed by the rules, which may include forfeiture of all ordinary pay for every day during which he was at large after the expiration of the said period.

11. Page 555. Section 145.

Subsection (2) Line 1. *After "Act" insert "including any act of the Parliament of Northern Ireland and any Act of Tynwald *".*

Insert footnote :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* This amendment was inserted by Regulation 13 of the Defence (Armed Forces) Regulations, 1939 (S.R. & O. 1942, No. 1882), and has effect only during the continuance in force of the said Regulation 13.

Subsection (3) (Page 556) Line 2. *After "Act," insert "including any Act of the Parliament of Northern Ireland and any Act of Tynwald *".*

Line 8. *After "division" insert "or (in Northern Ireland or the Isle of Man) the petty sessions district *".*

Insert footnote :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* These amendments were inserted by Regulation 13 of the Defence (Armed Forces) Regulations, 1939 (S.R. & O. 1942, No. 1882), and have effect only during the continuance in force of the said Regulation 13.

12. Page 569. Section 163. Subsection (1).

After sub-para. (j) insert new sub-para. :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

(jj) Where the proceedings are proceedings against an officer or soldier on a charge of being a deserter or absentee without leave, and the officer or soldier has been apprehended and has on arrest been taken into the custody of a provost marshal, assistant provost marshal or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal or other officer, and stating the fact, date and place of arrest, shall be evidence of the matters so stated * :

Insert footnote :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* This sub-paragraph was inserted by Regulation 10 of the Defence (Armed Forces) Regulations, 1939 (S.R. & O. 1941, No. 1155, as amended by S.R. & O. 1942, No. 1882) and has effect only during the continuance in force of the said Regulation 10. Paragraph (3) of the said Regulation 10 provides that any reference in section 163 of the Army Act as so amended, to the custody of a provost marshal, shall be construed as including a reference to the custody of any provost marshal, assistant provost marshal or officer exercising under Regulation 9 of the Defence (Armed Forces) Regulations (S.R. & O. 1941, No. 652), the powers of an army provost marshal in relation to persons subject to the Army Act.

13. Page 579. Section 175.

Delete asterisk in line 1 and delete footnote promulgated by Amendments No. 27 notified in Army Order 41 of 1941.

Page 580. *After para. (7) insert :—*

(7A) * Any person serving on a Commission in the Home Guard.

(7B) † Any person serving on a Commission in the Ulster Home Guard.

Insert footnotes :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* This paragraph was inserted by Regulation 2 of the Defence (Home Guard) Regulations, 1940 (S.R. & O. 1940, No. 748, as amended by S.R. & O. 1940, No. 2003, and S.R. & O. 1942, No. 91).

† This paragraph was inserted by Regulation 2 of the Defence (Ulster Home Guard) Regulations, 1942 (S.R. & O. 1942, No. 503).

14. Page 580. Section 176.

Delete asterisk in line 1 and *delete* footnote promulgated by Amendments No. 25 as amended by Amendment No. 27 :

After para. (8A) (page 582) *insert* :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

(8B) * All members of the Home Guard, other than those serving on a Commission in that force :

(8C) † All members of the Ulster Home Guard other than those serving on a Commission in that force.

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

Insert footnotes :—

* This paragraph was inserted by Regulation 2 of the Defence (Home Guard) Regulations, 1940 (S.R. & O. 1940, No. 748, as amended by S.R. & O. 1940, No. 2003, and S.R. & O. 1942, No. 91).

† This paragraph was inserted by Regulation 2 of the Defence (Ulster Home Guard) Regulations, 1942 (S.R. & O. 1942, No. 503).

15. Page 582. *After* Section 176 and note thereto *insert* new section and note :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

176A¹. The Army Act shall apply, in such manner, to such extent and subject to such adaptations and modifications as may be specified in instructions of the Army Council, in relation to women who :—

- (a) are employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as officers ; or
- (b) are enrolled in Queen Alexandra's Imperial Military Nursing Service or the reserve thereof ; or
- (c) are enrolled in the Territorial Army Nursing Service or the reserve thereof ; or
- (d) are enrolled in the Auxiliary Territorial Service ;

not being, in any of the said cases, women whose enrolment or other undertaking to serve was for part-time service only or for service without remuneration.

NOTE.

1. This section was added by the Army and Air Force (Annual) Act, 1943, to provide for the application of the Army Act to certain women's forces. This had already been done by Regulation 6 of the Defence (Women's Forces) Regulations, 1941, but it was considered necessary to re-enact the provisions in the Army Act itself in order to clear up doubts about the position of women serving outside the United Kingdom.

16. Page 594. Section 183. Para (2)—(as promulgated by Amendments No. 7 notified in Army Order 96 of 1932). Subpara. (c).

For " or brigadier " substitute " , brigadier or colonel ' .

Applica-
tion of
Army Act
to women's
forces.

17. Page 599. Section 187C (as promulgated by Amendments No. 25 notified in Army Order 202 of 1940).

Line 2. *Delete* "a Dominion to which this subsection applies" and *substitute* "the Dominion of New Zealand".

Delete lines 17-19.

18. Section 190.

Page 603. Para. (34)—(as promulgated by Amendments No. 7 notified in Army Order 96 of 1932).

Lines 3 and 4. *Delete* "and Northern Ireland".

Line 5. *Delete* "and".

Line 8. *After* "Act:" *insert*—"and

(c) as regards Northern Ireland, means the Petty Sessions (Ireland) Act, 1851, and any Act (including an Act of the Parliament of Northern Ireland) amending that Act."

Page 604. Para. (35)—(as amended by Amendments No. 7 notified in Army Order 96 of 1932).

Sub-para. (a). Line 1. *Delete* "and Northern Ireland".

Sub-para. (b). Line 3. *Delete* "and".

After sub-para. (b) *insert* :—

(c) as regards Northern Ireland, means a court of summary jurisdiction constituted in accordance with the provisions of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935; and "

After para. (41) *insert* :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

(42) The expression "aircraft" includes aeroplanes, balloons, kite balloons, airships, gliders or other machines for flying:

(43) The expression "aircraft material" includes any engines, fittings, guns, gear, instruments or apparatus for use in connection with aircraft, and any components and accessories of aircraft, and petrol and any other substance used for providing motive power for aircraft, and lubricating oil.

Page 605. *Delete* first three lines at top of page.

RULES OF PROCEDURE, 1926.

19. Page 649. Rule 45. *Add* at end of note 3:—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

"When the court acquit the accused of one or more charges and find him guilty of any other charge or charges, the president, after announcing the finding(s) of not guilty, will add that "the finding(s) of the court on the charge(s), being subject to confirmation, will be promulgated later."

20. Page 664. Rule 70. Note 1, line 5. *After* "defence." *insert* :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

"If objection is taken by the defence to the admissibility of an alleged confession or admission by the accused on the ground that such confession or admission was not a voluntary one, the court, before determining such issue, shall hear any witnesses whom the prosecution desire to call, and also

21. Page 713. *Below Section 39 and detail insert:—*

AMDT. 33/AUG., 1943.

26/MANUALS/2748. S.R.O. 1160

1943

Section 39A.

- (1) (a) { Wilfully
By wilful neglect
Negligently } { damaging
destroying
losing } His Majesty's { aircraft.
aircraft material.
- (b) Being guilty { an act
of neglect } likely to { damage to
destruction of
loss of } His Majesty's { aircraft.
aircraft material.
- (c) Being guilty { an act
of neglect } which caused { damage to
destruction of } public property by fire.
- (d) Without lawful authority disposing of His Majesty's { aircraft.
aircraft material.
- (e) Being guilty { an act
of neglect } { in flying
in the use of aircraft
in relation to aircraft
in relation to aircraft
material } which { caused
which was
likely
to cause } { loss of life
bodily injury } to a person.
- (f) During a state { wilfully and
of war without proper
occasion
negligently } causing { the sequestration by
or under the au-
thority of
the destruction in } a neutral state
of His
Majesty's air-
craft.
- (2) (a) Signing a certificate in relation to { an aircraft
aircraft material } without ensuring the accu-
racy thereof.
- (b) Being the pilot of one of His Majesty's aircraft, flying it at a height less than the height prescribed by a regulation issued under the authority of the { Army Council.
Air Council.
- (c) Being the pilot of one of His Majesty's aircraft, flying it so as { to cause
to be likely to cause } { unnecessary annoyance
to a person.
- (3) While in an aircraft disobeying a lawful command given as respects a matter { relating to the
flying
relating to the
handling
affecting the
safety } of an air-
craft { by a person under whose
command he was placed
by virtue of subsection
three of section thirty-
nine A of the Army
Act.

NOTE.—These rules may be cited as the Rules of Procedure (Amendment) Rules (No. 21), 1943.

SPECIMEN CHARGES.

22. Page 730. *After Specimen Charge-Sheet No. 84 insert :—*
 AMDT. 33/AUG., 1943. 26/MANUALS/2748.

No 84A.

CHARGE-SHEET.

The accused, No. , Serjeant
 Battalion, Regiment, a soldier of the Regular
 Forces, is charged with—

Negligently damaging His Majesty's aircraft,

in that he, in the vicinity of , on , when
 pilot of His Majesty's aircraft (*type*) , No. , so
 negligently performed his duties as pilot as to cause the said
 aircraft to collide with the ground thereby causing damage to
 the said aircraft.

No. 84B.

CHARGE-SHEET.

The accused, No. , Serjeant
 Battalion, Regiment, a soldier of the Regular Forces,
 is charged with—

*Being guilty of neglect likely to cause damage to His Majesty's
 aircraft,*

in that he, at , on , being in charge of
 glider No. , parked on the ground in a wind likely to
 cause damage thereto, neglected to ensure, as it was his duty to
 do, that the said glider was properly secured to the ground,
 which neglect was likely to cause damage to the said glider.

No. 84C.

CHARGE-SHEET.

The accused, No. , Private
 Battalion, Regiment, a soldier of the Regular Forces,
 is charged with—

*Being guilty of neglect which caused damage to public property
 by fire,*

in that he, at , on , negligently threw away
 a lighted match in hangar No. , thereby causing
 aircraft (*type*) No. , the property of the public,
 to be damaged by fire to the value of £ .

84D.

CHARGE-SHEET.

The accused, No. , Serjeant
 Battalion, Regiment, a soldier of the Regular Forces,
 is charged with—

*Without lawful authority disposing of His Majesty's aircraft
 material,*

in that he, at , on , without lawful authority
 sold to , a civilian, magnetophone No. , (*type*) ,

Sec. 39A (1)
 (a).
 Army Act.

Sec. 39A (1)
 (b).
 Army Act.

Sec. 39A (1)
 (c).
 Army Act.

Sec. 39A (1)
 (d).
 Army Act.

No. 84E.

CHARGE-SHEET.

The accused, Captain , Battalion,
Regiment, an officer of the Regular Forces, is charged
with—

39A (1)
y Act. *Being guilty of neglect in the use of an aircraft which caused
loss of life to a person,*
in that he, off Lee-on-the-Solent, on , when pilot of
His Majesty's aircraft (type) , No. , so negligently
manoeuvred the said aircraft as to cause it to collide with a
fishing boat, thereby causing , an occupant of the
said boat, to lose his life.

No. 84F.

CHARGE-SHEET.

The accused, No. , Private ,
Battalion, Regiment, a soldier of the Regular Forces,
is charged with—

39A (1)
y Act. *Being guilty of neglect in relation to aircraft which was likely
to cause loss of life to a person,*
in that he, at , on , when assisting to
service aircraft (type) , No. , negligently failed pro-
perly to secure the aileron controls of the said aircraft, and
thereby endangered the life of , the pilot of the said
aircraft.

No. 84G.

CHARGE-SHEET.

The accused, Captain , Battalion,
Regiment, an officer of the Regular Forces, is charged
with—

39A (1)
y Act. *During a state of war negligently causing the sequestration by
or under the authority of a neutral state of His Majesty's aircraft,*
in that he, at , on , during a state of war
between His Majesty and (), when flying His
Majesty's aircraft (type) , No. , negligently descended
at , in (), thereby causing the sequestration
of the said aircraft by or under the authority of the ()
Government.

No. 84H.

CHARGE-SHEET.

The accused, Captain , Battalion,
Regiment, an officer of the Regular Forces, is charged
with—

39A (2)
y Act. *Signing a certificate in relation to an aircraft without ensuring
the accuracy thereof,*
in that he, at , on , when pilot in charge
of His Majesty's aircraft (type) , No. , signed column
of the Daily Inspection Certificate in the Aeroplane

Maintenance Form (Army Form) relating to the said aircraft, thereby certifying the quantity of fuel (oil, coolant) then in the tank(s) of the said aircraft without ensuring the accuracy of the said certificate.

No. 84J.

CHARGE-SHEET.

The accused, Captain , Battalion, Regiment, an officer of the Regular Forces, is charged with—

Being the pilot of one of His Majesty's aircraft, flying it at a height less than the height prescribed by a regulation issued under the authority of the Army Council,

in that he, in the vicinity of , on , when pilot of His Majesty's aircraft (type) , No. , improperly and without permission flew the said aircraft at an altitude of less than 2,000 feet, contrary to the provisions of , being a regulation issued under the authority of the Army Council.

No. 84K.

CHARGE-SHEET.

The accused, No. , Serjeant , Battalion, Regiment, a soldier of the Regular Forces, is charged with—

Being the pilot of one of His Majesty's aircraft, flying it so as to be likely to cause unnecessary annoyance to a person,

in that he, in the vicinity of , on , when pilot of His Majesty's aircraft (type) , No. , flew it so low as to be likely to cause unnecessary annoyance to persons on the ground in the vicinity at the time.

No. 84L.

CHARGE-SHEET.

The accused, Captain , Battalion, Regiment, an officer of the Regular Forces, is charged with—

While in an aircraft disobeying a lawful command given as respects a matter relating to the flying of an aircraft by a person under whose command he was placed by virtue of Section 39A(3) of the Army Act,

in that he, in the vicinity of , on , when in an aircraft (type) , No. , under the command of Serjeant Pilot , and ordered by the said Serjeant

ec. 39A (2)
Army Act.

ec. 39A (2)
Army Act.

ec. 39A (3)
Army Act.

No. 84M.

CHARGE-SHEET.

The accused, Captain , Battalion,
 Regiment, an officer of the Regular Forces, is charged
 with—

While in an aircraft disobeying a lawful command given as respects a matter relating to the handling of an aircraft by a person under whose command he was placed by virtue of Section 39A(3) of the Army Act,

in that he, when airborne, on , and being the captain of a glider aircraft which was being towed by an aircraft (type) , No. , under the command of Serjeant Pilot , captain of the said aircraft, and ordered by the said Serjeant Pilot to cast off, did not do so.

39A (3),
 y Act.

23. Page 752. Line 3 from bottom of page.

Against "The finding(s)" *insert* an asterisk.

Insert footnote :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* When announcing the finding(s) of not guilty the president will add that "the finding(s) of the court on the charge(s), being subject to confirmation, will be promulgated later."

24. Page 756. In the line immediately before Section F, *against* "The court" *insert* an asterisk.

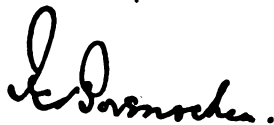
Insert footnote :—

AMDT. 33/AUG., 1943.

26/MANUALS/2748.

* When announcing that "The court is closed for the consideration of the sentence" the president will add that "the sentence to be awarded by the court, being subject to confirmation, will not be announced but will be promulgated later, and the proceedings in open court are accordingly terminated."

By Command of the Army Council,



THE WAR OFFICE,

31st August, 1943.

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